

RAVALLI COUNTY FLOODPLAIN REGULATIONS

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Adopted by:

Board of County Commissioners

Effective: March 17, 1999

For Information Contact:

Ravalli County Planning Department
215 S 4th Street, Suite F
Hamilton MT 59840

(406) 375-6229 Fax 375-6336

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FLOODPLAIN REGULATIONS

PREFACE

The United States Congress adopted the National Flood Insurance Act of 1968 and thereby created the National Flood Insurance Program to make flood insurance available to private individuals living in those counties and municipalities that have a program to guide and control development in the floodplain. In 1973, Congress passed the Flood Disaster Protection Act which prohibits federal agencies, such as the Federal Housing Authority (FHA), Veteran Administration (VA), and Small Business Administration (SBA) from making or securing a loan in a floodplain area unless flood insurance has been purchased.

As a result of the federal legislation, the Montana Legislature passed the Montana Floodplain and Floodway Management Act in 1971 which authorizes the Board of Natural Resources to adopt floodplains for the state's rivers and streams and sets minimum standards that local units of governments must follow for inclusion in the insurance program. On September 8, 1977, the Ravalli County Commissioners adopted floodplain regulations in compliance with state and federal law.

If the County did not participate in the flood insurance program there would be serious ramifications, including the following:

- o Property owners cannot purchase flood insurance, which makes securing financing on structures within a floodplain virtually impossible.
- o No federal grant or loan may be made for buildings in flood hazard areas.
- o In the event of a federally declared flood, disaster assistance would be reduced by the maximum amount of flood insurance that could have been acquired if the community had been enrolled in the program.
- o According to Section 10-3-311.2, Montana Code Annotated, no state disaster relief for flood-related damage may be available in the event of a state-declared flood.
- o Unwise floodplain development may be underway that could create a future liability for a community if it wanted to become part of the program in the future.
- o A local governing body could potentially be held liable for a property owner's damage if that property owner could have been covered by flood insurance, but was unable to purchase the insurance because the community elected to not participate in the program.

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HISTORY OF ADOPTION AND AMENDMENT

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Date	Event Description
March 10, 1975	Montana Board of Natural Resources and Conservation adopts a Final Order delineating the floodplain for the Bitterroot River from just north of Conner to the Ravalli/Missoula County line.
September 2, 1975	Board of County Commissioners decide to put the question of who should administer the floodplain regulations on a Public Preference Ballot. (Unnumbered resolution)
May 3, 1976	Board of County Commissioners decide to put the Public Preference Ballot on the Democratic and Republican Ballots for the June 1, 1976, Primary Election. (Resolution 110)
June 1, 1976	A Public Preference Ballot on whether the County or the state would administer the floodplain regulations was voted upon. Voters decide that the County should administer the regulations.
September 8, 1977	Board of County Commissioners adopts floodplain regulations in compliance with the Floodway Management and Regulation Act - Title 89, Chapter 35 RCM (1947). (Resolution 141, since repealed)
March 27, 1978	Board of County Commissioners amends floodplain regulations by stating its intent to regulate land uses subject to mudslides and flood-related erosion. (Resolution 180, since repealed)
March 27, 1978	Board of County Commissioners adopts a resolution regulating excavation, grading, fill or construction in the County. The overall intent of this resolution was to apparently avoid problems with mudslides in the county. (Resolution 181, since repealed)
October 24, 1980	Board of County Commissioners adopts the Ravalli County Flood Hazard Boundary Maps. (Resolution 262, since repealed)
June 21, 1982	Board of County Commissioners adopts floodplain regulations that became effective July 21, 1982. (Resolution 301, since repealed)
July 19, 1982	Flood Insurance Rate Maps (FIRM) become effective and supercede the Flood Hazard Boundary Maps, that were adopted April 18, 1978.
May 27, 1987	Board of County Commissioners amends floodplain regulations (Resolution 419, since repealed)
October 11, 1990	Board of County Commissioners amends floodplain regulations by defining the setback requirements, floodplain elevations and boundaries, among other purposes. (Resolution 556, since repealed)
March 11, 1991	Board of County Commissioners amends floodplain regulations. (Resolution 572, since repealed)
June 17, 1991	Department of Natural Resources and Conservation approves Resolution 572.

July 28, 1992	Board of County Commissioners amends Section 4.01(g) and 4.05 of the floodplain regulations. (Resolution 627, since repealed)
February 10, 1995	Board of Natural Resources and Conservation adopts new floodplain and floodway boundaries for the Bitterroot River based on the "Floodplain Management Study, Bitterroot River, Ravalli County, Montana" that was prepared by the Natural Resources Conservation Service, United States Department of Agriculture. That study extended from the confluence of the East and West Forks of the Bitterroot River north to the Ravalli/Missoula County line. The floodplain maps superseded the FIRMs for regulatory purposes.
January 9, 1997	Board of Natural Resources and Conservation adopts floodplain and floodway boundaries for the East and West Forks of the Bitterroot River based on the "Floodplain Management Study, Bitterroot River, Ravalli County, Montana" that was prepared by the Natural Resources Conservation Service, United States Department of Agriculture. For the West Fork, the maps extend from the Painted Rocks dam down to the confluence with the Bitterroot River. For the East Fork, the maps extend from the U.S. Forest Service boundary (above Springer Memorial) down to the confluence with the Bitterroot River. These adopted maps represent the first time these reaches were mapped for floodplain delineation.
September 7, 1998	Revised Flood Insurance Rate Maps (FIRMs) become effective and thereby supersede the FIRMs which were adopted July 19, 1982, for the area extending from the confluence of the East and West Forks of the Bitterroot River north to the Ravalli/Missoula County line. The Federal Emergency Management Agency based these maps on the floodplain and floodway boundaries that the Board of Natural Resources and Conservation adopted in 1995.
October 15, 1998	Board of County Commissioners repeals all prior resolutions and amends floodplain regulations. (Resolution 940)
March 17, 1999	Board of County Commissioners amends Section 3-11 and 4-5 and Table 4-6-1. (Resolution 959)
September 14, 2004	Board of County Commissioners amends fee schedule (Increases and Establishment of Fees). (Resolution 1544)
April 1, 2005	Board of County Commissioners amends fee schedule (Increases and Establishment of Fees). (Resolution 1587)

GENERAL PROVISIONS

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1-2. Title.

These regulations shall be known and cited as "Ravalli County Floodplain Regulations" and may be referred herein as this "Code".

1-3. General Description.

This Code establishes special flood hazard districts as overlay districts, establishes standards for avoiding or reducing flood damage and hazards; and describes the administration and enforcement of these provisions.

1-4. Authority.

The Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA) requires the adoption of this Code.

1-5. Findings.

(a) *General Findings.* The Board of County Commissioners makes the following general findings:

- (1) These regulations are adopted to meet the minimum requirements of the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA) and to ensure compliance with the requirements for the continued

participation by Ravalli County in the National Flood Insurance Program.

- (2) Flooding is a natural phenomenon.
- (3) Naturally flood-prone lands serve the following important functions in the regional hydrologic cycle and ecological system:
 - (a) They provide natural storage and conveyance of flood waters.
 - (b) They facilitate groundwater recharge.
 - (c) They provide temporary storage of surface waters that moderates flood elevations and the timing, velocity, and rate of flood discharges.
 - (d) They reduce erosion, and filter nutrients, sediments, and other pollutants from flood waters.
 - (e) They export detritus and other food sources to open water bodies and are vital habitat for fish, birds, wildlife and native plant communities.
- (4) Naturally occurring flooding provides recharge to groundwater and a basic source of flow to surface waters.
- (5) The uncontrolled development of flood-prone lands substantially degrades the health, safety, and welfare of the community in the following ways:
 - (a) The owners, residents, customers, guests, and employees occupying homes, businesses and other structures located in flood-prone areas are placed at unreasonable risk of personal injury and property damage.
 - (b) Expensive and dangerous search, rescue and disaster relief operations may be necessary when developed properties are flooded.
 - (c) Roads, public facilities, and utilities associated with development may be damaged by flooding at great expense to taxpayers and rate payers.
 - (d) Flooding of developed properties may lead to demands that the government construct expensive and environmentally damaging projects to control flood waters.
 - (e) Normally flood-free lands are placed at risk of flooding when flood waters on natural flood-prone areas are obstructed, diverted, displaced or channelized by development.
 - (f) Water quality is degraded and important

habitat for wildlife and fisheries is lost.

- (6) Property values are lowered and economic activity is disrupted by damaging floods.

(b) *Specific Findings.* Specific findings are included in each chapter as appropriate to the subject.

1-6. Purpose.

The purpose of this Code is to promote the public health, safety, and general welfare. To that end, this Code shall be implemented:

- (1) To protect human life and health to the greatest extent;
- (2) To promote the wise use of floodplain areas;
- (3) To minimize damage to and loss of public facilities and utilities;
- (4) To minimize damage to and loss of private property by requiring minimum flood protection at the time of initial construction or reconstruction;
- (4) To minimize expenditure of public money for costly flood control projects;
- (5) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) To control the type and location of development within the floodplain and identify lands unsuitable for certain development purposes because of flood hazards;
- (7) To ensure the regulations and minimum standards adopted, insofar as possible, balance the greatest public good with the least private injury;
- (8) To restrict or prohibit uses that are dangerous to health, safety, and property in times of flood, or that cause increased flood heights and velocities;
- (9) To ensure that potential buyers are notified that property is within a 100-year floodplain and subject to the provisions of this Code;
- (10) To ensure that those who develop within the 100-year floodplains assume responsibility for their actions;
- (11) To prevent unnatural diversion of floodwater to property that is normally flood free;
- (12) To limit filling, grading, dredging and other similar development which may increase erosion, sedimentation, or flood damage; and
- (13) To maintain the normal movement of surface waters, the optimum storage capacity of watersheds, desirable groundwater levels, water quality, and the natural hydrological and

ecological functions of wetlands, riparian areas, and other flood prone lands.

1-7. Applicability.

(a) *Geographic Area.* This Code applies to the unincorporated area of Ravalli County and specifically to all land located within the 100-year floodplain as delineated by the "Flood Insurance Study, Ravalli County, Montana" adopted September 7, 1998, as may be amended and those floodplain maps as may be adopted and amended by the Montana Board of Natural Resources and Conservation.

(b) *Effect on Previously Approved Floodplain Permits.* This Code does not apply to or modify a floodplain decision made before the effective date of this Code or any extension thereof.

(c) *Effect on Floodplain Applications.* This Code applies to all floodplain applications that are submitted for review after the effective date of this Code.

1-8. Relationship of this Code to Other Regulations.

(a) *Other Requirements.* In addition to meeting the provisions in this Code, proposed projects shall comply with all other applicable local, state, and federal rules or regulations.

(b) *Conflicts with Other Regulations.* If the requirements of this Code conflict with any other local, state, or federal rule or regulation, the most restrictive requirement or those that impose the highest standard shall control.

1-9. Amendments.

(a) *Generally.* This Code may be amended from time to time.

(b) *Procedure.* The Board of County Commissioners shall hold at least one (1) public hearing and shall give public notice of the time and place of the hearing in a newspaper of general circulation in the county. The notice must be published twice, with at least 6 days separating publications. The first publication can be no more than 21 days before the event and the second not less than 3 days before the event. (See: 7-1-2121, MCA)

(c) *Appendices Not Part of Code.* The appendices are not considered part of this Code and may be changed from time to time without adhering to the amendment process and requirements.

1-10. Repeal of Prior Resolutions.

Upon the effective date of this Code, all prior floodplain regulations are repealed. All other resolutions are amended so as not to conflict with this Code.

1-11. Abrogation.

This Code does not repeal or impair any existing easements, covenants, or deed restrictions duly recorded in the public records of the County. However, where this Code imposes greater restrictions, this Code shall prevail.

1-12. Effective Date.

This Code shall be effective immediately upon adoption. (See: 7-5-123, MCA)

1-13. Severability.

If a court of competent jurisdiction holds that a part(s) of this Code is invalid for any reason, the validity of the remaining portions shall continue in full force and effect.

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INTERPRETATION, CONSTRUCTION, AND DEFINITIONS

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2-2. General Description.

This Chapter describes the rules that will be used to interpret the provisions of this Code and defines certain terms that are used.

2-3. General Rules of Construction.

(a) *Generally.* In the application of this Code, all provisions, terms, and phrases shall be construed so that the true intent and meaning of this Code may be carried out.

(b) *Consistency with County Master Plan.* Nothing in this Code shall be construed to authorize development that is inconsistent with the Master Plan, as may be adopted or amended.

(c) *Consistency with Zoning Regulations.* Nothing in this Code shall be construed to authorize development that is inconsistent with zoning or similar land use regulations, as may be adopted or amended.

(d) *Minimum Standards.* The interpretation and application of any provision of this Code shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare.

(e) *Not To Repeal Other Powers.* Nothing in this

Code shall be construed to limit or repeal any other power granted by state or federal law.

2-4. Internal Conflicts.

A more specific provision of this Code shall be followed in lieu of a more general provision that may be more lenient than or in conflict with the more specific provision.

2-5. Use of Graphics, Illustrations, Headings, References, and Statutory Citations.

(a) *Purpose.* Graphics, illustrations, headings, references, and statutory citations are included to improve the readability of this Code and to increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings, printed in boldface or in italic type, generally state the content of that section and are intended to help the reader quickly find the information they are looking for. References and statutory citations are included where the section is related to state or local law or is related to another section. These are included to help the reader understand how that section relates to other provisions.

(b) *Interpretation.* In case of any difference of meaning, interpretation, or implication between the text and any graphic, illustration, heading, reference, or statutory citation the text shall control. They shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of any provision.

(c) *Effect of Deficiency.* No provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, or statutory citation, since the text controls.

2-6. Delegation of Authority.

Wherever a provision requires an elected official, department supervisor, or some other county employee to

do some act or perform some duty, it is to be construed to authorize that individual to designate, delegate, and authorize professional-level subordinates to perform the required act or duty, unless otherwise specified.

2-7. Responsibility for Interpretation.

In the event that any question arises concerning any provision or the application of any provision of this Code, the Floodplain Administrator shall be responsible for such interpretation and shall look to the overall intent of this Code and the Master Plan, as may be adopted or amended, for guidance. The Floodplain Administrator shall provide such interpretation in writing to the applicant upon request and keep a permanent record of said interpretation.

2-8. Computation of Time.

When a time period is specified in this Code, the first day shall be the first day after the event that triggers the time clock to start. For example, if a decision is to be made within 60 days, the time clock starts the day after the application has been deemed sufficient.

2-9. Interpretation of Floodplain Boundaries.

(a) *Floodfringe Boundaries.* The adopted floodplain maps show the general location of the floodfringe. The exact location of the floodfringe boundary is where the base flood elevation at any given cross-section intersects the natural ground surface.

(b) *Floodway Boundaries.* The adopted floodplain maps show the location of the floodway.

2-10. General Rules of Interpretation.

In the interpretation of this Code, the following shall be observed, unless such interpretation would be inconsistent with the text:

- (1) *Gender.* Words of the masculine gender include the feminine and neuter and vice versa.
- (2) *Singular and Plural Words.* Words in the singular include the plural and vice versa.
- (3) *Tense.* Words in the present tense include the past and future tense and the future tense includes the present tense.
- (4) *Shall or Will.* The word "shall" or "will" is

mandatory.

- (5) *May or Should.* The word "may" or "should" is permissive.
- (6) *Include and Including.* The word "includes" or "including" shall not limit a provision to the specific examples, but is intended to extend its meaning or application to all other instances or circumstances of like kind or character.
- (7) *Such As.* The phrase "such as" shall not limit a term or provision to the specific examples, but is intended to extend its meaning or application to all other instances or circumstances of like kind or character.

2-11. General Definitions.

(a) *Words and Terms Not Defined.* Unless specifically defined in this section, words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common usage and to give this Code its most reasonable application.

(b) *Words and Terms Defined.* For the purpose of this Code, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning:

- A -

Alteration means any change or addition to a structure that either increases its external dimensions or increases its potential flood hazard. (Also see: *Structure* and in contrast see: *New Construction*, *Remodel* and *Substantial Improvement*)

Appeal means a process to review (1) a decision or determination or (2) an alleged failure to act as required.

Applicant means a person, or a person's agent, who submits an application as required by the adopted regulations. (Also see: *Person*)

Avoid means to take an action so that a negative impact does not occur. (In contrast see: *Minimize* and *Mitigate*)

- B -

Bank Stabilization means any effort to harden the bank of a stream to prevent lateral movement. Such measures

include: bio-engineering, native material revetments, rip-rap, bin-walls, barbs, vanes, and many other techniques. (Also see: *Grade Control Structure*)

Base Flood See: 100-Year Floodplain

Base Flood Elevation means the vertical elevation above sea level to which the waters of a 100-year flood are expected to rise to. The base flood elevation is the same as the 100-year flood elevation.

Board of County Commissioners means the Ravalli County Board of County Commissioners.

Building means a structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of persons, animals, chattels, or property of any kind. (Also see: *Structure*)

Burden of Proof means the obligation of a party to show by evidence that an assertion is in fact true. (Source: 1, modified)

- C -

Channelization Project means the excavation and/or construction of an artificial channel for the purpose of diverting the flow of a stream from its established course.

Clerk & Recorder means the office of the clerk & recorder for Ravalli County.

County Attorney means the office of the county attorney for Ravalli County.

Covenant means a written statement, whether written on the face of the final plat or in a separate instrument recorded with the final plat, that restricts or otherwise regulates the use of property or the kind, character, and location of buildings or other structures which may be located thereon. (Refer to: Title 70 Chapter 17 Part 2, MCA and Section 76-3-306, MCA)

Cumulative Effects means a noticeable overall effect which results from the incremental effects of other projects, where the increment from each project may not necessarily be noticeable or considered unacceptable.

- D -

Day means a calendar day, unless a work day is indicated. (Also see: *Year*)

Development means any activity that must comply with the adopted regulations.

Deviation, Major means a deviation from the terms of the original floodplain permit, other than a minor deviation. (In contrast see: *Minor Deviation*)

Deviation, Minor means a deviation from the terms of the original floodplain permit that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process and which does not alter the intent of the approval. (In contrast see: *Major Deviation*)

Discourage means to avoid or hinder an event or some occurrence. (In contrast see: *Encourage*)

Drainage Detention Structure means a structure designed to collect and temporarily store stormwater with subsequent gradual release of the stormwater. (In contrast see: *Drainage Retention Structure*)

Drainage Retention Structure means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage. (In contrast see: *Drainage Detention Structure*)

Dwelling Unit means a single unit providing complete, independent, and permanent living facilities for one housekeeping unit, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

- E -

Encourage means to stimulate, foster, or help advance an event or some occurrence. (In contrast see: *Discourage*)

Enhance means to improve or increase in value or attractiveness.

Establish means to construct, place, insert, or excavate.

- F -

Factory-Built Home means a dwelling unit that is (1) wholly or substantially constructed off-site and transported to the building site for assembly and (2) designed to be used on a permanent foundation. Note: The Montana Department of Commerce, Building Codes Bureau, regulates the construction of factory-built homes. A factory-built home bears an orange insignia which certifies that it meets the applicable state statutes and administrative rules in effect at the time of construction. (In contrast see: *Manufactured Home*, *Mobile Home* and *Site-Built Home*)

Finding means a written conclusion or determination based on evidence which is considered in arriving at a final decision.

Fish Habitat Structure means any structure that is designed to create or improve fish habitat. Examples include: random instream boulder cover and bank cover. This term is narrowly construed to exclude any structure which offers fish habitat as a secondary benefit.

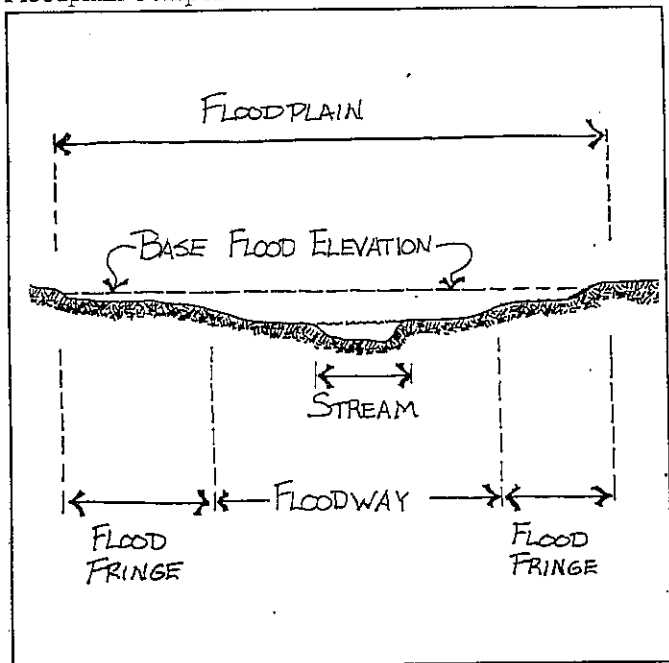
Flood or **Flooding** means a general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the map prepared and adopted by the Federal Emergency Management Agency (FEMA) that delineates both the 100-year floodplains and the risk premium zones. (Also see: *100-Year Flood*)

Flood Insurance Study means the report prepared and adopted by the Federal Emergency Management Agency (FEMA) that shows flood profiles as well as the flood boundary/floodway map and the water surface profiles.

100-Year Floodplain means the area generally adjoining a stream, that would be covered by water of a 100-year flood event except for designated shallow flooding areas that receive less than one (1) foot of water per occurrence. (See Figure 2-11-1) (Also see: *100-Year Flood*, *Floodway* and *Floodfringe*)

Figure 2-11-1.
Floodplain Components.



Floodplain Island means an area of land that is above the base flood elevation and is wholly surrounded by an area of land that is below the base flood elevation. (Also see: *Base Flood Elevation*)

100-Year Flood means a flood having a one (1) percent chance of being equaled or exceeded in any given year. A 100-year flood is the same as a base flood.

100-Year Flood Elevation See: *Base Flood Elevation*.

Floodway means the channel of a stream and the adjacent overbank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half (1/2) foot. (See Figure 2-11-1) (Also see: *Floodplain* and *Floodfringe*)

Flood Fringe means that portion of a the floodplain outside the limits of the floodway. (See Figure 2-11-1) (Also see: *Floodplain* and *Floodway*)

- G -

Grade Control Structure means a structure consisting of stones, rocks, or analogous material that is placed on the bed of a stream to control or otherwise influence the grade of the stream. (Also see: *Bank Stabilization*)

- H -

Hazard means any condition, either natural or man-made, which presents a tangible danger to the public health, safety, and general welfare.

Hazardous Substance means any material regulated by the "Emergency Planning and Community Right-to-Know Act of 1986" 42 USC 1101-11050, as amended. (Also see: *Hazardous Waste and Regulated Substance*)

Hazardous Waste means a waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. The term does not include substances governed by Title 82, Chapter 4, Part 2, MCA. (Source: 75-10-403, MCA) (Also see: *Hazardous Substance and Regulated Substance*)

- I -

Instream Structure means all types of structures placed within the ordinary high water mark of streams for irrigation purposes, for controlling stream bank erosion, or for controlling the movement of the stream channel. This includes such structures as rip-rap, barbs, drop structures, dikes, and similar structures. (Also see: *Structures*)

Insure/Ensure means to guarantee or make sure something will happen.

- L -

Land Use means, as the context would indicate, (1) the development that has occurred on the land (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

Land Use, Accessory means any land use that is clearly incidental and subordinate to and customarily found with a principal land use. (Also see: *Land Use* and in contrast see: *Land Use, Principal*)

Land Use, Principal means the dominant land use of a parcel of land. (Also see: *Land Use* and in contrast see: *Land Use, Accessory*)

Land Use, Water-Dependent means any land use that is by necessity dependent upon access to a water body for: water-borne transportation, including ports or marinas, recreation, electrical generating facilities, or water supply. (Also see: *Land Use*)

Letter of Map Amendment means an amendment that the Federal Emergency Management Agency makes to a community's Flood Insurance Rate Map(s) when it can be shown that a given area that is shown as being within a special flood hazard area is in fact outside. (In contrast see: *Letter of Map Revision*)

Letter of Map Revision means a revision that the Federal Emergency Management Agency makes to a community's Flood Insurance Rate Map(s) when mistakes were made in the original analysis or when physical conditions have changed. (In contrast see: *Letter of Map Amendment*)

Levee means a man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices. (Also see: *Levee* and *Structure*)

Lot of Record See: *Tract of Record*

Lowest Floor means any floor used for living purposes, storage, or recreation or that could be converted to such a use.

- M -

Maintain means to support, keep, and continue in an existing state or condition without decline.

Manufactured Home means a dwelling unit that is (1) constructed off-site; (2) equipped with the necessary utility service connections; (3) made so as to be readily movable as a unit or units on its (their) own running gear; (4) designed to be used without a permanent foundation.

Note: The Department of Housing and Urban Development regulates the construction of manufactured homes. If fabricated after July 15, 1976, the manufactured home bears a red insignia which certifies that it meets the Federal Manufactured Housing Construction and Safety Standards Act of 1974. (See: CRF 328) (In contrast see: *Factory-Built Home*, *Mobile Home*, and *Site-Built Home*)

Market Value means the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which is capable of being used. (Source: 2, modified)

Master Plan means that plan of Ravalli County adopted pursuant to Section 76-1-103, MCA.

Mean Sea Level means the North American Vertical Datum of 1988 or other datum to which base flood elevations are referenced.

Minimize means to take an action so that no other alternative would result in a lesser impact. (In contrast see: *Avoid* and *Mitigate*)

Mitigate means to take an action to offset or rectify a negative impact by repairing, rehabilitating, or restoring the affected environment. (Also see: *Avoid* and *Minimize*)

Mobile Home means a dwelling unit that was constructed prior to June 15, 1976, and that is (1) constructed off-site; (2) equipped with the necessary utility service connections; (3) made so as to be readily movable as a unit(s) on its (their) own running gear; (4) designed to be used without a permanent foundation. Note: After June 15, 1976, no mobile homes have been constructed. There is no certification of any code compliance. (In contrast see: *Factory-Built Home*, *Manufactured Home*, and *Site-Built Home*)

- N -

Native Material Revetment means bank stabilization using root wads, logs, boulders, vegetation plantings, and sod mats. This type of design improves visual and biological values as opposed to some of the more "hard" approaches such as rip-rap. (Also see: *Bank Stabilization*)

New Construction means the construction of a new structure that is not part of an existing structure. (Also see: *Structure* and in contrast see: *Alteration*, *Remodel* and *Substantial Improvement*)

Nonconforming Structure means any structure that does not conform with the building standards established for the district in which it is located. (Also see: *Structure*)

Nonconforming Use means any land use that does not conform with the use standards established for the district in which it is located. (Also see: *Land Use*)

- P -

Park means an area dedicated to recreational uses.

Permanent Foundation means a continuous wall around the perimeter of a building composed of solid concrete or concrete blocks or a series of concrete piers spaced around the perimeter of a building. (Also see: *Building*)

Permit means a written governmental authorization allowing the holder to take action not otherwise allowed.

Person means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Practice of Engineering means any service or work as fully described in Section 37-67-101(6) MCA. (Also see: *Professional Engineer*)

Preserve means to save from change or loss and reserve for a special purpose.

Professional Engineer means a person licensed in conformance with Title 37, Chapter 67, MCA, to practice engineering in the state of Montana. (Source: 76-3-103, MCA)

Professional Land Surveyor means a person licensed in conformance with Title 37, Chapter 67, MCA, to practice surveying in the state of Montana. (Source: 76-3-103, MCA)

Public Notice means the ways in which a governmental body uses or is required to use to formerly notify people of a proposed governmental hearing or action.

- R -

Recreation Vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use and not for use as a permanent dwelling.

Regulated Substance means any hazardous substance as defined in 75-10-602, MCA, or petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure. This term does not include hazardous wastes as regulated by state law. (Source: 75-10-403, MCA) (Also see: *Hazardous Substance and Hazardous Waste*)

Rip-rap means a structure consisting of stones or rocks (not concrete) that is placed along the banks or bed of a stream to alleviate lateral erosion. (Also see: *Bank Stabilization*)

River See *Stream*.

Remodel means to only change the interior/exterior appearance of a structure, where there is no change in the footprint and does not constitute alteration or substantial improvement. (Also see: *Structure* and in contrast see: *Alteration*, *New Construction*, and *Substantial Improvement*)

- S -

Sewage Facility means any facility, or parts thereof, designed for the collection, removal, treatment, and disposal of waterborne sewage.

Sewage Facility, Individual means a sewerage facility which serves a single parcel or lot for the purpose of disposal of domestic waste products.

Sewage Facility, Public means a sewage facility which serves ten (10) or more families or twenty-five (25) or more persons for at least 60 days a year. (Source: 76-4-102, MCA)

Site-Built Home means a dwelling unit that is constructed on the site on which it will be located. (In contrast see: *Factory-Built Home*, *Manufactured Home* and *Mobile*

Home)

Site Plan means a plan, drawn to scale, showing the layout of existing and proposed property lines, easements, structures, uses, utilities, parking areas, streets, signs, buffers, landscaping, adjacent land uses, and other information as required.

Solid Waste means all putrescible and nonputrescible wastes. (Refer to: 75-10-103, MCA)

Start of Construction means commencement of clearing, grading, filling, or excavating to prepare a site for construction.

Stream means a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

Structure means any permanent or temporary object that is constructed, installed, or placed by man, the use of which requires a location on a parcel of land. It includes buildings of all types, bridges, instream structures, storage tanks, fences, swimming pools, towers, poles, pipelines, transmission lines, smokestacks, signs, and similar objects. (Also see: *Building*)

Substantial Damage means damage sustained by a building or structure where the cumulative cost of restoring the building or structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. (Also see: *Building*, *Market Value* and *Structure*)

Substantial Improvement means any repair, reconstruction, or improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure either:

- (a) before the improvement or repair is started, or
- (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor or other structural part of the building commences.

The term does not include:

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- (b) any alteration of a structure listed on the National

Register of Historic Places or state inventory of historic places. (Also see: *Building and Structure* and in contrast see: *Alteration* and *New Construction*) (Note: In contrast to alteration, a substantial improvement is based on the same footprint of the building that existed prior to the substantial damage.)

Suitable Fill means fill material which is stable, compacted, well graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and is fitting for the purpose of supporting the intended use and/or permanent structure.

- T -

Tract of Record means land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the office of the clerk and recorder, as of the effective date of this Code, or amendment thereto as the context would indicate. (Source: 76-3-103, MCA, modified) (Also see: *Clerk and Recorder*)

- V -

Variance means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Vested Right means a right which when it has become absolute and fixed can not be defeated, contested, or denied by subsequent governmental actions, conditions, or change in regulations. (Source: 1, modified)

Violation means the failure of development to comply with applicable regulations. (Also see: *Development*)

Voluntary Zoning District means a district in the unincorporated area of the county that is created by the board of county commissioners following a petition of those landowners within the district pursuant to Title 76, Chapter 2, Part 1, MCA, for the expressed purpose of regulating land uses and densities/intensities within the district. (See: 76-2-101, MCA)

- W -

Water Right means a right to use water that is protected under Montana law. (See: Title 85, Chapter 2, MCA)

Waterbody includes rivers, streams, creeks, irrigation ditches, lakes, and ponds, both natural and man-made.

Wetland means those ecological entities so defined by the current edition of the "Federal Manual for Identifying and Delineating Wetlands". (Also see: *Riparian Area*)

Written or In Writing means any representation of words, letters or figures, whether by printing or otherwise.

- Y -

Year means 365 days, unless otherwise indicated. (Also see: *Day*)

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Sources for Definitions:

Where a term is not unique to a specific source, no source was listed. In all other cases, a source is listed and the most authoritative source was used. The sources as listed herein, however, may not necessarily be the original source. Some definitions from other sources have been modified to enhance clarity or for specific application to this Code.

Index of Sources

1. Black, Henry Campbell, 1979, 5th edition. Black's law dictionary. St. Paul, MN; West Publishing Company.
2. International Association of Assessing Officers, 1977. Property assessment valuation. Chicago, IL; International Association of Assessing Officers.

ADMINISTRATION AND PROCEDURES

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3-2. General Description.

This Chapter describes the procedure and requirements to submit and review floodplain projects that are subject to public review.

3-3. Findings.

The Board of County Commissioners makes the following findings:

- (1) Excessive procedural requirements add unnecessary costs to development.
- (2) The public, adjacent landowners, affected agencies, and substantially affected local units of government have a right to know about proposed floodplain projects and have meaningful

participation in the review process. (See: Title 2, Chapter 3, Part 1, MCA and Article II, Section 8, Montana Constitution)

- (3) Written findings should accompany every floodplain decision to serve as a permanent record documenting the reasons for approval or denial and the conditions of approval.
- (4) In most cases, negative effects of a project can be avoided, minimized, or mitigated by the applicant. However, there may be instances where unmitigated effects are grounds for denial.
- (5) Despite every attempt by the Floodplain Administrator and the applicant to ensure that projects do not affect surrounding property owners and the function/stability of the stream, it is possible that such a result could occur. Therefore, it is reasonable to impose as a condition of approval a requirement that the applicant file a mitigation agreement with the Clerk & Recorder.
- (6) New technology and design approaches, especially with instream structures, are being developed that do not have a sufficient "track record" and as such are experimental. Given this fact, it is very difficult to determine the effectiveness of these types of project and effects on surrounding property owners and the function/stability of the stream. Therefore, it is reasonable to impose as a condition of approval a requirement that the applicant file a monitoring agreement with the Clerk & Recorder.
- (7) In cases where flood waters are threatening life and property and constitutes an unexpected emergency, a simplified process is needed to issue permits, provided all of the development standards are satisfied.

3-4. Purpose.

The purpose of this Chapter is to promote the public health, safety, and general welfare and to:

- (1) adopt review procedures and requirements;
- (2) provide expeditious review of applications;
- (3) encourage public participation during the review process;
- (4) avoid, minimize and/or mitigate the negative

effects of floodplain projects on the public and surrounding landowners;

- (5) permit, but not encourage, nonconformities to continue until such time as they are removed, discontinued, altered or substantially improved; and
- (6) ensure that nonconformities that are removed, discontinued, altered or substantially improved shall be made to conform to all provisions of this Code.

3-5. Floodplain Administrator.

(a) *Designation of Floodplain Administrator.* The Director of Planning, Ravalli County, is hereby designated as the Floodplain Administrator.

(b) *Maintenance of Records.* The Floodplain Administrator shall maintain such files and records as may be necessary to document nonconforming uses, flood elevations, flood proofing and elevation certifications, fee receipts, the issuance of permits, agendas, minutes, records of public meetings and any other matters related to floodplain management in Ravalli County. Such files and records shall be open for public inspection. In matters of litigation, Ravalli County Attorney, may restrict access to specific records.

3-6. Permit Required.

(a) *Generally.* Activities or uses which require the issuance of a permit, including the expansion or alteration of such uses (see Section 4-4 and Table 4-1) shall not be initiated, established or undertaken until the Floodplain Administrator has issued a permit.

(b) *Emergency Permits Authorized for Public Projects.* The Floodplain Administrator, or designee, may issue an emergency permit for emergency repair and replacement of severely damaged public transportation facilities, public water and sewer facilities, and flood control works may be authorized. Authorization to undertake emergency repair and/or replacement work may be given verbally if the Floodplain Administrator feels that such a written authorization would unduly delay the emergency work. Such verbal authorization must be followed by a written authorization describing the emergency condition, and the type of emergency work agreed upon, and stating that a verbal authorization had been previously given. All work must comply with all of

the development standards.

(c) *Emergency Permits for Private Projects.* The Floodplain Administrator, or designee, may issue an emergency permit for stream projects without adhering to the public notice provisions of this Code when it can be shown that an unexpected emergency does exist and that land or structures are being threatened.

3-7. Application and Review Procedure.

(a) *Pre-Submittal Meeting.* The applicant or the applicant's agent shall meet with the Floodplain Administrator prior to submitting a floodplain application to review the project and identify potential issues and to also review applicable regulations and procedures.

(b) *Submittal of Preliminary Floodplain Application.* The applicant shall submit the preliminary floodplain application to the Floodplain Administrator.

(c) *Notification of Requirements for Final Floodplain Application.* Upon receiving the preliminary application, the Floodplain Administrator shall notify the applicant in writing of additional materials that must be submitted with the final application.

(d) *Submittal of Final Floodplain Application.* The applicant shall submit the final application to the Floodplain Administrator.

(e) *Determination of Completeness.* Within ten (10) days of submittal, the Floodplain Administrator shall determine whether the application is complete or incomplete and notify the applicant of any deficiencies. If the application is deemed incomplete, the applicant has six (6) months to resubmit the application or forfeit the application fee. The Floodplain Administrator shall take no further steps to process the application until the deficiencies are remedied.

(f) *Provision of Public Notice by the Floodplain Administrator.* The Floodplain Administrator shall provide for public notice as specified in Section 3-12.

(g) *Inter-Agency Review.* The Floodplain Administrator shall forward one (1) copy of the complete application to the Department of Natural Resources and one (1) copy to the Bitterroot Conservation District when the proposed development may impact the bed or bank of a stream.

(h) *Public Hearing.* Depending on the magnitude of the project and the comments from adjoining property owners and the general public, the Floodplain Administrator may require a public hearing.

(i) *Floodplain Administrator Decision.* Within sixty (60) days after a determination of completeness, the Floodplain Administrator shall review the final application and shall approve the application, approve it with conditions, or deny it based on the criteria as described in this Chapter or request additional information as may be needed to adequately evaluate the application. Failure to act within this time period shall constitute approval by the Floodplain Administrator.

(j) *Applicant Notification of Decision.* Within seven (7) days following the decision, the Floodplain Administrator shall mail the floodplain decision to the applicant.

(k) *DNRC Notification of Decision.* The Floodplain Administrator shall send a copy of the decision to the Montana Department of Natural Resources and Conservation, Floodplain Management Section. (See: 36.15.204 (2)(e) ARM)

(l) *Certification of Permit Compliance.* Within ten (10) days following completion of the project, the applicant shall provide the Floodplain Administrator with the certification of compliance as required by this Chapter.

3-8. Basis of Decision.

(a) *Generally.* Decisions to approve, approve with conditions, or deny a floodplain application shall be based on whether the application, public comments, or additional information demonstrates that the proposed project:

- (1) meets the standards of this Code and the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA); and
- (2) is consistent with zoning regulations and covenants, if any; and
- (3) is in the public interest.

(b) *Review Criteria.* To determine whether the proposal would be in the public interest, the Floodplain Administrator shall consider the following:

- (1) the danger to life and property due to increased flood heights, increased flood water velocities or alterations in the pattern of flood flow caused by encroachments;

- (2) the danger that materials may be swept onto other lands or downstream to the injury of others;
- (3) the proposed water supply and sanitation systems, if any, and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- (4) the susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- (5) the likelihood that the structure or building will be threatened due to its proximity to the stream or potential lateral movement of the stream;
- (6) the importance of the services provided by the facility to the community;
- (7) the requirement of the facility for waterfront location;
- (8) the availability of alternative locations not subject to flooding for the proposed use;
- (9) the compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
- (10) the relationship of the proposed use to the Master Plan and floodplain management program for the area;
- (11) the safety of access to property in times of flooding for ordinary and emergency services;
- (12) effects of the project on other properties;
- (13) the effects on water rights;
- (14) the cumulative effect of the proposed project along with other existing projects; and
- (15) such other factors as are in harmony with the purposes of this Code, the Montana Floodplain and Floodway Management Act, and the National Flood Insurance Program.

3-9. Contents, Effective Period, Limitations, and Conditions of Floodplain Decision.

(a) *Contents for Approval.* If the application is approved, the floodplain decision shall at a minimum include the following:

- (1) A statement that the application is approved.
- (2) A general description of the project.
- (3) Findings for the public interest assessment and that support the required mitigation, if any.
- (4) Findings stating the consistency of the project with the Master Plan, zoning, and covenants, if any.
- (5) Specifications and requirements for development improvements, if any.
- (6) The procedures and requirements when there is a major or minor deviation from the floodplain

decision.

- (7) A statement specifying under what conditions the Floodplain Administrator may withdraw the floodplain decision.
- (8) How long the floodplain decision is valid.
- (9) A statement stating that changes in this Code shall not affect the approval and that no additional conditions shall be imposed.
- (10) A statement stating that the floodplain decision may be appealed.
- (11) Date of the decision.
- (12) A signature block for the Floodplain Administrator.

(b) *Contents for Denial.* If the application is denied, the floodplain decision shall at a minimum include the following:

- (1) A statement that the application is denied.
- (2) A description of the project.
- (3) Findings for the public interest assessment that support the decision.
- (4) Findings stating the consistency of the project with the Master Plan, zoning, if any, and covenants, if any.
- (5) A statement indicating that the denial does not limit the applicant's ability to resubmit a revised application to the County for consideration.
- (7) A statement indicating that the floodplain decision may be appealed to district court.
- (8) Date of the decision.
- (9) A signature block for the Floodplain Administrators.

(c) *Effective Period of Approval.* An approved floodplain decision shall be vested for 12 months.

(d) *Revocation of Approval.* The Floodplain Administrator may revoke the approval if it is determined that information in the application or otherwise provided by the applicant or applicant's agent is false or inaccurate and that misinformation or mistaken information would materially alter the findings of fact that were issued.

(e) *Imposition of Conditions.* The Floodplain Administrator shall impose conditions on the issuance of a permit as may be necessary to allow a positive finding that the project is in the public interest. In addition, the Floodplain Administrator shall require the applicant to file a mitigation agreement with the Clerk & Recorder's Office if there is a possibility that the project may negatively affect the adjoining property or the function/stability of the river (see Appendix C for a sample); and/or

a monitoring agreement with the Clerk & Recorder's Office for projects that will result in a significant alteration of the river, the project uses experimental designs and materials, and other factors as deemed appropriate. (See Appendix C for a sample.)

3-10. Preliminary Application Form and Content.

(a) *Preparation.* The preliminary application may be prepared by the applicant, registered architect, registered professional engineer, registered land surveyor, or other qualified individual, as appropriate to the project.

(b) *Format.* The application, as may be used by the Floodplain Administrator, shall be completed. (See Appendix A)

3-11. Final Application Form and Content.

(a) *Preparation.* The final application shall be prepared by a registered professional engineer, registered land surveyor, and/or registered architect, or other qualified individual, as appropriate to the project. When the project entails the practice of engineering, a professional engineer shall complete the application and certification, if required. Examples of such projects include grade control structures, channel shaping / relocation, water diversions, bridges/culverts, utility lines, levees and floodwalls, river channelization, bank stabilization projects in excess of 200 cumulative feet, and dams.

(b) *Required Content.* The final application shall include:

- (1) An application form, as may be used by the Floodplain Administrator. (See Appendix A)
- (2) A site plan prepared consistent with this Code.
- (3) A vicinity map showing the location of the subject property and the location and name of adjacent roads and municipal boundaries.
- (4) The names and complete mailing addresses of all owners of record owning property adjoining the subject property, as identified on the most recent tax rolls of the county.
- (5) Copies of issued or requested permits where applicable, including but not limited to the following:
 - (a) 404 Permits, pursuant to Section 404 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1334;

- (b) 310 Permits, pursuant to Natural Streambed and Land Preservation Act, Title 23, Chapter 2, MCA (1992).
- (c) Short-Term Exemption from Surface Water Quality Turbidity Standards
- (6) A list of variances, requested or granted, that are relevant to the application.
- (7) As appropriate, certification by a professional engineer or registered architect that the proposed project has been designed to be in compliance with this Code.

(c) *Additional Information May Be Required.* The Floodplain Administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of this Code. Additional information may include the following:

- (1) A hydraulic study documenting probable effect on upstream, downstream, or adjacent property owners caused by the proposed development; or
- (2) The calculated increase in the 100-year flood water surface profile caused by the proposed development.

3-12. Public Notice.

(a) *Landowner Notice.* Mailed notice shall be provided consistent with the following provisions:

- (1) *Extent of Mailing.* A notice describing the proposed project shall be mailed via first-class mail to each property owner of record and each purchaser under contract for deed whose property abuts the subject property. Where the project abuts a road, utility, or ditch right-of-way, notice shall also be given to the next adjoining property owner of record and each purchaser under contract for deed.
- (2) *Content of Notice.* The notice shall include the following information:
 - (a) Applicant(s) name
 - (b) Legal description of subject property
 - (c) Name of the entity who will consider the application
 - (d) The deadline for accepting public comment
 - (e) Location where the public can view the application
 - (f) Location map showing the subject property and the names and location of abutting roads
 - (g) The criteria that will be used to evaluate the application.
- (3) *Time Requirements for Comment Period.* The

notice shall allow for at least a fifteen (15) day comment period.

- (4) *Source of Names and Addresses.* The names of the property owners shall be taken from the latest ad valorem tax roll maintained by the County.
- (5) *Effect of Failure to Notify Owner.* The failure of any person required by this section to receive the notice shall not invalidate or otherwise have any effect upon a public hearing or action taken on the application.
- (6) *Additional Notice.* Where the applicant is the owner of land not included in the application and the unincluded land is a part of or adjoins the parcel upon which the request is made, the Floodplain Administrator may require that notices be mailed to additional owners as appropriate.

(b) *Legal Public Notice.* Legal public notice shall be provided consistent with the following provisions:

- (1) *Time Requirements for Comment Period.* The notice shall allow for at least a fifteen (15) day comment period.
- (2) *Content of Notice.* The notice shall include the following information:
 - (a) Applicant(s) name
 - (b) Legal description of subject property
 - (c) Name of the entity who will consider the application
 - (d) Date, time, and location of the hearing or the deadline for accepting public comment
 - (e) Location where the public can view the application.

(c) *Local Government Notification.* The Floodplain Administrator shall send a written notice to a local unit of government when the project substantially affects that jurisdiction.

3-13. Compliance Certification Requirements.

(a) *Generally.* To determine that the permit specifications and conditions have been completed, applicants shall furnish the following at the time of an onsite conformance inspection, as appropriate:

- (1) Certification by a registered professional engineer or registered land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered, or substantially improved buildings.
- (2) If flood proofing techniques were used for buildings, the mean sea level elevation to which

the flood proofing was accomplished must be certified by a professional engineer with demonstrated expertise in structural engineering or licensed architect in the same manner.

- (3) Certification shall also be required, for artificial obstructions other than buildings, verifying that the activity was accomplished in accordance with this Code and the design plans submitted with the application for the permit activity.
- (4) Certification of a flood proofing and/or elevation shall be provided on a standard form available from the Floodplain Administrator.
- (5) Flood proofing must be certified by a registered professional engineer or architect that the flood proofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the 100-year flood.

(b) *Waiver of Certification Requirements.* The Floodplain Administrator may waive certain certification requirements when an on-site inspection clearly demonstrates that the conditions of the approval were satisfied.

3-14. Appeals.

An applicant or an aggrieved person or persons, jointly or separately, may appeal a decision to approve, approve with conditions, or deny a floodplain application to the Twenty-First Judicial District Court.

3-15. Emergency Preparedness Planning.

In formulating community development goals, the County shall consider the development of a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas. This plan should be developed, filed with, and approved by appropriate community emergency management authorities.

3-16. Enforcement.

(a) *Notification.* The Floodplain Administrator shall bring any violation of this Code to the attention of the Board of County Commissioners, the County Attorney, and the Montana Department of Nature Resources and Conservation, Floodplain Management Section.

(b) *Public Nuisance.* Any person who establishes a development project in the 100-year floodplain, without first obtaining a floodplain permit from the Floodplain Administrator, has created a public nuisance subject to remedies as specified under Sections 27-30-202 and 27-30-204, MCA. (See: 76-5-404(1), MCA)

(c) *General Penalties.* Any person who violates any provision of this Code shall be guilty of a misdemeanor and punishable by a fine of no more than one-hundred dollars (\$100) or by imprisonment in jail for not more than 10 days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense. (See: 76-5-110, MCA)

(d) *Section 1316 Declaration.* Under Section 1316 of the National Flood Insurance Act of 1968, flood insurance can be denied to properties in violation of state or local floodplain regulations. In addition, to other legal actions, the County shall file a Section 1316 Declaration with the Flood Insurance Management Agency that would not permit the violator and subsequent owners to obtain flood insurance.

(e) *Additional Penalties.* In addition to the above penalties and actions, the County may seek other rights of action or remedies in equity under common statutory law.

3-17. Warning and Disclaimer of Liability.

This Code does not imply that areas outside the delineated floodplain boundaries or permitted land uses within such areas will always be totally free from flooding or flood damages. This Code shall not create a liability on the part of, or a cause of action against Ravalli County, or any officer or employee thereof for any flood damages that may result from reliance upon this Code.

3-18. Map Amendments.

(a) *Flood Insurance Rate Maps.* The Federal Emergency Management Agency may amend the adopted flood insurance rate maps (FIRMS) with a Letter of Map Amendment (LOMA) or with a Letter of Map Revision (LOMR) as may be appropriate. (Contact the Floodplain Administrator for an application.)

(b) *Floodplain Maps.* The Floodplain Administrator may amend the floodplain maps for regulatory purposes only, when survey information submitted by a professional

land surveyor, shows that an area is located above the base flood elevation. The Floodplain Administrator shall maintain all such determinations. (Also refer to Section 2-9, which describes the interpretation of the floodplain boundaries.)

3-19. Floodplain Determinations for Flood Insurance Purposes and for Regulatory Purposes.

The Floodplain Administrator shall not issue floodplain determinations for flood insurance purposes, but shall, upon request, issue floodplain determinations for regulatory purposes. (Note: The Floodplain Administrator has a list of companies that provide floodplain determination for insurance purposes.)

3-20. Disclosure Provision.

All owners of property in the identified 100-year floodplain shall notify potential buyers and their agents that such property is subject to the provisions of this Code.

3-21. Major and Minor Deviation.

(a) *Generally.* Following a floodplain decision and prior to the expiration of that decision, the applicant may seek to deviate from the approved project as provided for in this section.

(b) *Major Deviation.* The Floodplain Administrator shall review a major deviation to determine whether to approve it or to require additional review by affected parties. Additional review should be held when the deviation would create new consequences or consequences of a greater magnitude not considered during the review of the application. Additional review would not be necessary when the deviation would lessen or otherwise mitigate the negative impacts that were identified during the review of the application.

(c) *Minor Deviation.* The Floodplain Administrator may allow a minor deviation from the approval.

3-22. Permission to Enter Subject Property.

Submission of an application authorizes Ravalli County officials, employees, or other designated agents to enter the subject property to verify information in the

application and to conduct whatever other site investigations are necessary to review the application. This does not authorize any individual to enter any building on the subject property. Failure to allow access to the property shall be sufficient grounds for denial of the application.

3-23. Status of Nonconforming Uses, Structures, and Permits.

(a) *Generally.* Within the mapped floodplains there may exist structures, uses, and permits which were lawful before the adoption of this Code and associated floodplain maps, but which would be prohibited or otherwise controlled by this Code or amendment thereto. This section prescribes how these nonconformities may be continued or made to comply with this Code.

(b) *Nonconforming Uses.* A nonconforming use of land may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged, increased or expanded to occupy a greater area of land than was occupied at the effective date of adoption or amendment.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment.
- (3) If any such nonconforming use is discontinued for more than six (6) months any subsequent use of such land shall conform. Continuance of the use after such period is specifically prohibited.

(c) *Nonconforming Structures.* A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way to increase its nonconformity.
- (2) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (3) Should such a structure be substantially damaged or destroyed, by any means, it may be reconstructed, repaired, or replaced if allowed in the district and meets all applicable development standards.

(d) *Unsafe Conditions.* Nothing in this section shall be deemed to prevent the strengthening or restoring to a

safe condition of any building or part.

(e) *Sanitation Approval.* If the County issued a septic permit for a parcel that is now located in the floodplain and a system has not been installed and placed in service, said permit shall be valid for a period of two (2) years from the effective date of this Code. If during this time period, a septic system is not installed pursuant to the permit and the system is not connected to a permitted structure/use and placed in service, the permit shall become null and void.

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DEVELOPMENT STANDARDS

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4-1. Table of Contents.

- 4-1. Table of contents
- 4-2. General description
- 4-3. Findings
- 4-4. Purpose
- 4-5. General design principles
- 4-6. Uses allowed and prohibited in the floodway and floodfringe
- 4-7. Determination of effects of project on base flood elevation
- 4-8. Flood proofing standards

4-2. General Description.

This Chapter describes which uses are allowed and prohibited in the floodway and floodfringe and the minimum development standards which allowed uses shall meet.

4-3. Findings.

The Board of County Commissioners makes the following findings:

- (1) The Bitterroot River between Hamilton and Stevensville is a meandering river with multiple channels over very deep alluvial deposits. The shifting and changing of the river channel is an ever constant feature of the river in this reach. At one location for example, the channel has shifted as much as 1,800 feet. Throughout this reach, meander loops have been destroyed, the channel has switched to an alternate course, and additional braiding has occurred. Based on these observations, the river reach is inherently unstable.
- (2) Bridge and culvert projects that increase the base flood elevation upstream, cause a backwater, which typically causes gravel deposition above the project which in turn decreases the cross-section through the bridge section or culvert.
- (3) The general development standards allowing a one-half (1/2) foot increase in the base flood elevation, while generally appropriate for most

bridge and culvert projects, is not appropriate in the reach between Hamilton and Stevensville.

4-4. Purpose.

The purpose of this Chapter is to promote the public health, safety, and general welfare and to:

- (1) identify which projects are allowed without a permit, allowed with a permit, or prohibited within the 100-year floodplain.
- (2) establish minimum development standards to protect the floodplain function/stability from inappropriate development and to protect appropriate projects from annual floodwaters.

4-5. General Design Principles.

(a) *Generally.* Floodplain projects shall be designed to avoid adverse impacts. If avoidance of an adverse impact(s) is not possible, then that adverse impact(s) shall be minimized to an acceptable level and also mitigated in some manner.

(b) *Location of Non-Water Related Development.* All development that is not water-dependent shall be located as far away from the river channel as possible. In cases where a portion of the subject property is not located within a floodplain, development that is not water-dependent shall be located in such an area to the fullest extent it is feasible.

(c) *Allowable Increase in Flood Height.* A project may not increase the flood height more than one-half (1/2) foot, unless existing or anticipated development in the area dictates a lesser amount of allowable increase as may be determined by the Floodplain Administrator.

4-6. Uses Allowed and Prohibited in the Floodway and Floodfringe.

(a) *Matrix of Uses.* The uses as listed in Table 4-6-1 are allowed without a permit, allowed with a permit, or prohibited in the floodfringe and floodway as listed along

with minimum development standards (See: 76-5-401 through 76-5-403, MCA and 36.15.601 through 36.15.903 ARM). Work on structures will fall into one of the following categories:

- (1) Alteration
- (2) New Construction
- (3) Remodel
- (4) Substantial Improvement

(b) *Applicability of Development Standards to Existing Structures.* The development standards are to be applied to an existing structure as follows:

- (1) For an alteration, only that part being added shall conform to the development standards.
- (2) For a remodel, no development standards apply.
- (2) For a substantial improvement, the entire structure shall conform to the development standards.

(c) *Used Not Listed.* All uses, structures, buildings, and obstructions not specifically listed are prohibited.

(d) *Imposition of Additional Conditions.* In addition to the minimum development standards as listed in Table 4-6-1, the Floodplain Administrator may impose other conditions to allow a positive finding on the review criteria.

4-7. Determination of Effects of Project on Base Flood Elevation.

To determine the effects of a project, such as a bridge or a culvert, on the base flood elevation, the HEC-RAS computer model, or acceptable equivalent, shall be used. (Note: Before starting any modeling, the applicant should consult with the Floodplain Administrator for the appropriate model.) The computer model should assume some aggradation due to the backwater caused by bridges and culverts.

4-8. Flood Proofing Standards.

Commercial and industrial buildings that are not elevated two (2) feet above the base flood elevation with suitable fill (See Figure 4-6-1) shall be flood proofed to an elevation no lower than two (2) feet above the base elevation as follows:

- (1) If the structure is designed to allow internal flooding of areas below the lowest floor, use of this space shall be limited to parking, loading

areas, building access, and storage of equipment or materials not appreciably affected by flood waters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two (2) feet above the base flood elevation. Walls shall be designed to automatically equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, other coverings, or devices which permit the automatic entry and exit of floodwaters.

- (2) Structures whose lowest floors are used for a purpose other than parking, loading, or storage of materials resistant to flooding shall be flood proofed to an elevation no lower than two (2) feet above the base flood elevation. Flood proofing shall include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors, and other openings. These structures shall also be designed to withstand the hydrostatic, hydrodynamic, and buoyancy effects of a 100-year flood.
- (3) Electrical systems shall meet the following criteria:
 - (a) *Electrical Equipment to be Above Base Flood.* All incoming power service equipment, including all metering equipment, control centers, transformers, distribution and lighting panels, and all other stationary equipment shall be located at least two (2) feet above the base flood elevation.
 - (b) *Electrical Equipment Permitted Lower than Base Flood.* Portable or movable electrical equipment may be placed below the base flood elevation, if the equipment can be disconnected by a single submersible plug and socket assembly.
 - (c) *Main Service Line.* The main power service line shall have automatic/ manually operated electrical disconnect equipment located at an accessible location outside the 100-year floodplain and above the base flood elevation.
 - (d) *Electrical Wiring.* All electrical wiring systems installed at or below the elevation of the 100-year flood shall be suitable for continuous submergence and may not contain fibrous components.
- (4) Heating systems shall meet the following criteria:
 - (a) *Automatic Control Vales.* Float operated automatic control valves shall be installed in gas furnace supply lines so that the fuel supply is automatically shut off when flood

waters reach the floor level where the furnace is located.

- (b) *Manual Gate Valves.* Manually operated gate valves shall be installed in gas supply lines. They shall be operable from a location above the elevation of the 100-year flood.
 - (c) *Electric Heating Systems.* Electric heating systems shall be installed in accordance with the standards for electrical systems.
- (5) Plumbing systems shall meet the following criteria:
- (a) *Sewer Lines.* Sewer lines, except those to be buried and sealed in vaults, shall have check valves installed to prevent sewage backup into permitted structures.
 - (b) *Plumbing Fixtures.* All toilet stools, sinks, urinals, and drains shall be located so the lowest point of possible water entry is at least two (2) feet above base flood elevation.

Figure 4-6-1

Elevation Standards for Residences and Commercial and Industrial Structures.

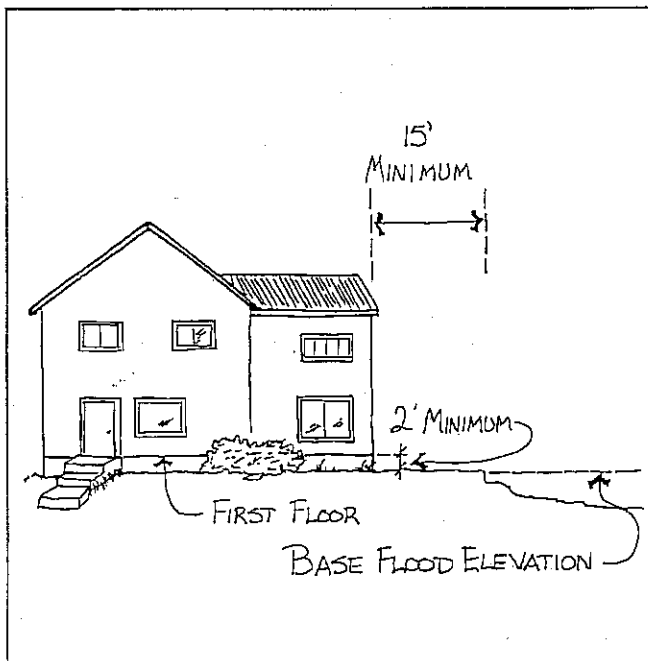


Table 4-6-1.

Matrix of Uses and Minimum Development Standards.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Storage or disposal of solid and hazardous wastes and hazardous substances	Prohibited	Prohibited	n / a
Storage or disposal of toxic, flammable, hazardous, or explosive materials	Prohibited	Prohibited	n / a
New individual sewage systems of all types whether for temporary storage, treatment, or disposal	Prohibited	Prohibited	n / a
Use of an existing individual sewage system for an increase in effluent flow.	Prohibited	Prohibited	(Note: For example, it is not permissible to convert a residential structure into a commercial enterprise, which has a higher flow rate than the residential structure. Likewise, it is not permissible to replace a three-bedroom house with a five-bedroom house.)
Replacement of an existing individual sewage system	No permit required	No permit required	a. The system meets the requirements of the Ravalli County Sewage Disposal Regulations (Specifically see Section III). b. The system is located as far from the river channel as possible.
Public sewage system	Prohibited	Permit required	(Also see the requirements of the Ravalli County Sewage Disposal Regulations - Section VI(d))
Removal of woody debris, such as downed trees in a river channel	No permit required	No permit required	(Note: A 310 Permit from the Bitterroot Conservation District may be needed.)
Agricultural uses	No permit required	No permit required	Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures.
Accessory uses such as loading and parking areas, or emergency landing airstrips associated with industrial and commercial facilities	No permit required	No permit required	Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures.
Private and public recreational uses such as golf courses, driving ranges, archery ranges, picnic grounds, parks, wildlife management and natural areas, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking or horseback riding trails	No permit required	No permit required	a. Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures. b. The project will not require flood protection in the future.
Forestry, including processing of forest products with portable equipment	No permit required	No permit required	Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Residential uses such as lawns, gardens, parking areas and play areas	No permit required	No permit required	Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures.
Irrigation and livestock supply wells and monitoring wells	No permit required	No permit required	a. Does not involve fill, excavation, permanent storage of materials / equipment, or structures other than portable structures. b. Located at least five hundred (500) feet from domestic water wells.
Fences, except permanent fences crossing channels	No permit required	No permit required	Does not involve fill or excavation.
Recreational vehicle	No permit required	No permit required	a. It shall be on the site for no more than 180 consecutive days. b. It shall be fully licensed and ready for highway use — wheels intact and is attached to the site only by quick disconnect type utilities and security devices. c. It has no permanently attached additions. d. It is not the primary residence of the occupant(s).
Bank stabilization (e.g. native revetments, rip rap, vanes, barbs)	Permit required	Permit required	a. The project is designed to withstand a 100-year flood event. b. The project does not increase the base flood elevation at or near the project. c. The project does not adversely affect adjoining properties. d. The project does not adversely affect the river or river functions. e. The treatment does not extend higher than the natural bank or higher than the base flood elevation.
Grade control structure (e.g. weirs)	Permit required	Permit required	a. The project is designed to withstand a 100-year flood event. b. The project does not increase the base flood elevation at or near the project. c. The project does not adversely affect adjoining properties. d. The project does not adversely affect the river or river functions. e. The project allows passage of water craft in low flows. f. The project allows normal movement of fish through the reach.
Channel shaping / relocation	Permit required	Permit required	a. The desired cross-section shall be based on information from a suitable reference reach. b. Bank stabilization is incorporated to ensure short-term and long-term stability of the banks. c. The flood-carrying capacity of the altered or relocated channel shall be maintained.
Boat ramp	Permit required	Permit required	The project is designed to withstand a 100-year flood event.
Temporary flow reduction for instream construction work	Permit required	Permit required	The work shall be done so as to minimize the negative effects on fish.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Water diversion for irrigation purposes	Permit required	Permit required	<ul style="list-style-type: none"> a. The project is designed to withstand a 100-year flood event. b. The project does not increase the base flood elevation at or near the project. c. The project does not adversely affect adjoining properties. d. The project does not adversely affect the river or river functions. e. The project allows passage of water craft in low flows. d. The project allows normal movement of fish through the reach.
Fish habitat structure	Permit required	Permit required	None
Pond, gravel pit, drainage retention structure, drainage detention structure, or similar excavation	Permit required	Permit required	<ul style="list-style-type: none"> a. A buffer strip of undisturbed land is left between the edge of the channel and the edge of the excavation. This buffer strip shall be of sufficient width to prevent flood flows from flowing into and/or out of the excavation. b. Excavated material is disposed of or stockpiled outside the floodway.
Bridge, culvert (road and railroad)	Permit required	Permit required	<ul style="list-style-type: none"> a. The crossing is designed to offer minimal obstruction to flood flow. b. The project shall not increase the base flood elevation more than one-half (1/2) foot (See Section 4-5) nor cause a significant increase in flood velocities. Between Hamilton and Stevensville, there shall be no increase in the base flood elevation. c. The bottom of the bridge span shall be at least two (2) feet above the base flood elevation.
Limited fill (road and railroad embankments not associated with a bridge crossing)	Permit required	Permit required	<ul style="list-style-type: none"> a. Reasonable alternate transportation routes outside the designated floodway are not available. b. The encroachment is located as far from the river channel as possible. c. The project does not result in a cumulative increase in base flood elevations of more than one-half (1/2) foot (See Section 4-5) nor cause a significant increase in flood velocities.
Fill	Prohibited	Permit required	<ul style="list-style-type: none"> a. The fill is needed to comply with the development standards as contained herein. b. The amount of fill is the minimum necessary.
Utility lines (buried or suspended)	Permit required	Permit required	<ul style="list-style-type: none"> a. The lowest point of the suspended line shall be at least six (6) feet above the base flood elevation. b. Towers and other appurtenant structures are designed and placed to withstand and minimally obstruct flood flows and are not located in the floodway. c. Utility transmission lines carrying toxic or flammable materials and crossing a river channel are buried to a depth of at least twice the calculated maximum depth of scour for a 100-year flood event.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Material or equipment storage	Permit required	Permit required	<ul style="list-style-type: none"> a. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent floatation or downstream movement. b. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic, hazardous, or explosive materials shall not be permitted.
Agricultural structure that have a low damage potential, such as a shed, barn, shelter, and hay or grain storage structure	Permit required	Permit required	<ul style="list-style-type: none"> a. It is anchored to prevent floatation or collapse. b. All electrical facilities shall be placed above the base flood elevation.
Domestic water supply well	Permit required	Permit required	<ul style="list-style-type: none"> a. It is located on ground higher than the surrounding area to assure positive drainage away from the well. b. The well casing is water tight to a distance of at least twenty-five (25) feet below the ground surface. c. Water supply and electrical lines have a watertight seal where they enter the casing. d. All pumps, electrical lines, and equipment are either submersible or are adequately flood proofed. e. Check valves are installed on main water lines at wells and all building entry locations.
Buried and sealed vaults for sewage disposal in public recreational areas (day use only)	Permit required	Permit required	<ul style="list-style-type: none"> a. The lowest point of possible water entry into the vault shall be at least one-half (1/2) foot above the base flood elevation. b. The tank shall be anchored to prevent floatation. c. The system meets other applicable laws and standards as administered by the Montana Department of Environmental Quality and Ravalli County.
Campgrounds	Permit required	Permit required	<ul style="list-style-type: none"> a. The entire project involves only limited fill for roads, campsite pads, and the like that will not obstruct or divert flood waters. b. Recreational vehicles and travel trailers are licensed and ready for highway use -- wheels intact and is attached to the site by quick disconnect type utilities and security devices, and have no permanently attached additions. c. No onsite sewage disposal / storage facilities are proposed or will be ultimately required by the facility. d. The campground spaces (pads) shall be located at least 150 feet from the river channel.
Structures accessory to permitted uses such as boat docks, marinas, sheds, picnic shelters, picnic tables	Permit required	Permit required	<ul style="list-style-type: none"> a. The structure is not intended for human habitation. b. The structure will have a low flood damage potential. c. The structure will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible. d. The flood proofing standards of Section 4-8 are met. e. The structure shall be constructed and placed so as to offer minimal obstruction to flood flows and is anchored to prevent floatation.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Levee and flood wall	Prohibited	Permit required	<ul style="list-style-type: none"> a. The project shall be owned and maintained by a public entity. b. The project is designed and constructed to safely convey a 100-year flood. c. The project will not result in a cumulative increase in base flood elevations of more than one-half (1/2) foot. (See Section 4-7) d. The proposed levee or flood wall, except those to protect agricultural land, are constructed at least three (3) feet higher than the base flood elevation.
Dam	Permit required	Permit required	<ul style="list-style-type: none"> a. It is designed and constructed in accordance with the Montana Dam Safety Act and applicable safety standards. b. It will not increase flood hazards downstream, either through operational procedures or improper hydrologic / hydraulic design.
Fish hatchery	Prohibited	Permit required	A berm is placed around the perimeter of the ponds so that the top of the berm is at least one (1) foot above the base flood elevation.
Residence (excluding manufactured home and mobile home) — Alteration, substantial improvement		Permit required	<ul style="list-style-type: none"> a. The lowest floor (including basement) is at least two (2) feet above the base flood elevation. b. It is built on suitable fill which is at or above the base flood elevation and extends at least fifteen (15) feet beyond the building in all directions. (See Figure 4-6-1)
Residence (excluding manufactured home and mobile home) — Alteration, substantial improvement	Permit required		<ul style="list-style-type: none"> a. The lowest floor (including basement) is at least two (2) feet above the base flood elevation. b. It is built on a permanent foundation with no fill.
Manufactured home and mobile home — Alteration, replacement, substantial improvement		Permit required	<ul style="list-style-type: none"> a. The lowest floor (including basement) is at least two (2) feet above the base flood elevation. b. It is built on suitable fill which is at or above the base flood elevation and extends at least fifteen (15) feet beyond the building in all directions. (See Figure 4-6-1) (Exception — Where the size of the lot or space precludes construction on suitable fill, it shall be raised on a permanent foundation, with no fill.) c. Manufactured homes proposed for use as commercial or industrial structures shall be elevated and anchored, rather than flood proofed.
Manufactured home and mobile home — Alteration, replacement, substantial improvement	Permit required		<ul style="list-style-type: none"> a. The lowest floor is at least two (2) feet above the base flood elevation. b. It is built on a permanent foundation with no fill. c. Manufactured homes proposed for use as commercial or industrial structures shall be elevated and anchored, rather than flood proofed.

	Floodway	Floodfringe	Minimum Standards if Allowable (Also see Section 4-5)
Commercial or industrial building — New construction	Prohibited	Permit required	<ul style="list-style-type: none"> a. The lowest floor (including basement) is at least two (2) feet above the base flood elevation. b. It is built on suitable fill which is at or above the base flood elevation and extends at least fifteen (15) feet beyond the building in all directions. (See Figure 4-6-1) c. It is built as far away from the river channel as possible. d. Rather than meeting parts a and b above, meet the flood proofing standards listed in Section 4-8. e. Manufactured homes proposed for use as commercial or industrial structures shall be elevated and anchored, rather than flood proofed.
Commercial or industrial building — Alteration, substantial improvement	Permit required		<ul style="list-style-type: none"> a. The lowest floor (including basement) is at least two (2) feet above the base flood elevation. b. It is built on a permanent foundation with no fill. c. Rather than meeting part a above, meet the flood proofing standards listed in Section 4-8.

ADMINISTRATIVE FEES

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5-1. Table of Contents.

- 5-1. Table of contents
- 5-2. General description
- 5-3. Findings
- 5-4. Purpose
- 5-5. Fee schedule
- 5-6. Refund of fee
- 5-7. Waiver of fee

5-2. General Description.

This Chapter states the basis for assessing administrative review fees and lists the various fees associated with the administration of this Code.

5-3. Findings.

The Board of County Commissioners makes the following findings:

- (1) It is in the public interest of all taxpayers of Ravalli County, to assess applicants with a reasonable fee to recover a portion of the actual administrative costs of reviewing and processing application requests.
- (2) The Montana Floodplain and Floodway Management Act (Section 36.15.204(3)(b), ARM) allows the assessment of reasonable fees.
- (3) There may be instances, where it is appropriate to waive application fees, in whole or in part, on a case-by-case basis as a means to encourage projects that advance legitimate public interests so as not to discourage projects that would benefit the entire community like parks for example.

5-4. Purpose.

The purpose of this Chapter is to identify those administrative fees which are assessed and which may be refunded or waived.

5-5. Fee Schedule.

Fees shall be paid at the rates specified in Table 5-5-1. In determining whether a project is a small-scale project or a large-scale project, the Floodplain Administrator shall consider the scope of the project, anticipated public participation, anticipated number of field inspections and consultations, design difficulty, and the likelihood of follow-up and administration. In Figure 5-5-1, the examples listed for small-scale and large-scale are typical projects.

5-6. Refund of Fee.

All fees are non-refundable.

5-7. Waiver of Fee.

The Floodplain Administrator may waive, in whole or in part, any administrative fee for a project sponsored by a community organization or a public agency that would benefit the community.

Table 5-5-1.
Fee Schedule.

<u>Application/Permit</u>	<u>Fee</u>
Extension to Floodplain Permit	\$20
Floodplain Determination (regulatory)	
Office Determination	\$15
Field Determination	\$50
Floodplain Application	
Small-Scale Project (e.g. Residences, small ponds, agricultural structures)	\$125
Large-Scale Project (e.g. Instream structures, channel shaping, bank stabilization over 100 feet, commercial and industrial buildings, bridges, campgrounds, gravel pits)	\$350
"After the Fact" Floodplain Application (For work in progress or after completion)	
Small-Scale Project	\$250
Large-Scale Project	\$700
Floodplain Map Revision Application	No charge
Variance	\$100
Document Filing Fee (Monitoring agreements, mitigation agreements, etc.)	\$6 / page

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RESOLUTION NO. 1544
Fee Schedule Increases & Establishment of Fees

WHEREAS, the following offices have made a review of their fee schedule and after such review found it reasonable and necessary for an increase and or establishment of certain fees; and

WHEREAS, those offices being the Planning Department, Sheriff's Office, Road & Bridge Department, Clerk & Recorder's Office and Treasurer's Office; and

WHEREAS, the Ravalli County Commissioners did by legal notice hold a public hearing on September 14, 2004, in order to take public comment and make a decision on the proposed fee increases and establishments; and

WHEREAS, the Commissioners received no public comment in opposition of the fees and after such review found the proposed fee increases and fee establishments to be reasonable and related to the costs of such services and supplies.

THEREFORE BE IT RESOLVED THAT THE FOLLOWING FEE INCREASES AND FEE ESTABLISHMENTS, AS ATTACHED, BE ADOPTED.

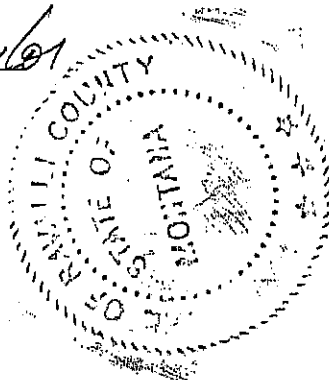
PASSED AND APPROVED THIS 14TH DAY OF SEPTEMBER, 2004.
BOARD OF RAVALLI COUNTY COMMISSIONERS

Betty T. Lund
Betty T. Lund, Chairman

Alan Thompson
Alan Thompson, Member

Greg Chilcott
Greg Chilcott, Member

Attest: Nedra P. Taylor
Clerk & Recorder



Act: Commissioner's Office

RAVALLI COUNTY FEE SCHEDULE - PLANNING -

Item	Existing	Proposed Changes
Miscellaneous		
New Address	\$15.00	
Address- Just Numbers	\$5.00	
Road Name Petitions	\$75.00	
Copies	\$.50 1st pg/ \$.25 add	
Ag Covenant Revocation	\$425.00	
Publications		
Floodplain Regs	\$10.25	
Subdivision Regs	\$10.25	
Subdivision Regs-Mailed	\$13.25	
Parks Plan	\$0.00	
Pre-Application Review	\$0.00	
Major Subdivisions		
Preliminary Plat Review		
6 to 15 lots	\$300 & \$15/ lot	\$900 & \$50/ lot
16 to 25 lots	\$300 & \$20/ lot	\$900 & \$50/ lot
26 and more	\$300 & \$25/ lot	\$900 & \$50/ lot
Final Plat Review	\$150 & \$5/ lot	\$375 & \$5/ lot
Minor Subdivisions		
Preliminary Plat Review	\$425.00	
Final Plat Review	\$150 & \$5/ lot	\$200 & \$5/ lot
Expedited Minors		
Preliminary Plat Review	\$200.00	
Final Plat Review	\$150.00	
Mobile Home, RV and Condos		
1 to 5 units	\$350 & \$10/ unit	\$450 & \$50/ unit
6 to 15 units	\$400 & \$10/ unit	\$900 & \$50/ unit
16 to 25 units	\$450 & \$10/ unit	\$900 & \$50/ unit
26 or more units	\$500 & \$10/ unit	\$900 & \$50/ unit
Final Plat Review	\$150 & \$5/ unit	\$150 & \$5/ unit
Extension of Prelim Plat	\$20.00	
Change of Prelim Plat Conditions- Simple	\$0.00	
Change of Prelim Plat Conditions- Complex	\$0.00	
Subdivision Exemption Application	\$50.00	\$200
Variance	\$100.00	\$200
Subdivisions - Rent or Lease		
Clerk & Recorder		
Document Filing Fee	\$6/ page	
Other Recorded Documents	\$1/ page	
Plat Filing Fees for Sub or Amended Plats	\$5 & \$.50/ lot	
Floodplains		
Extension to Permit	\$20.00	
Office Determination	\$15.00	\$50
Field Determination	\$50.00	\$100
Small Scale Project	\$125.00	\$350
Substantial Project		
Large Scale Project	\$350.00	\$350
"After-the-fact" Small Scale	\$250.00	\$700
"After-the-fact" Large Scale	\$700.00	\$700
Map Revision Application	\$0.00	\$100
Variance	\$100.00	\$500
Document Filing Fee	\$6/page	\$6/page

RECORDED: 03/31/2005 10:19 RESOLUTION

Clerk and Recorder BY: Nedra P. Taylor FEE: \$0.00

RECEIVED

APR 01 2005

RESOLUTION NO. 1587Fee Schedule Increases & Establishment of Fees

Ravalli Co. Planning Office

IC-05-04-607

WHEREAS, the following offices have made a review of their fee schedule and after such review found it reasonable and necessary for an increase and or establishment of certain fees; and

WHEREAS, those offices being the Environmental Health Office, Planning Office, Public Health Nursing Office and Weed Department; and

WHEREAS, the Ravalli County Commissioners did by legal notice hold a public hearing on March 24, 2005, in order to take public comment and make a decision on the proposed fee increases and establishments; and

WHEREAS, the Commissioners received no public comment in opposition of the fees and after such review found the proposed fee increases and fee establishments to be reasonable and related to the costs of such services and supplies.

THEREFORE BE IT RESOLVED THAT THE FOLLOWING FEE INCREASES AND FEE ESTABLISHMENTS, AS ATTACHED, BE ADOPTED EFFECTIVE APRIL 1, 2005.

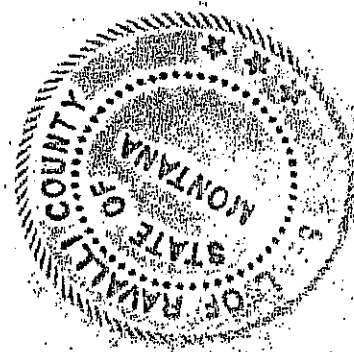
**PASSED AND APPROVED THIS 24TH DAY OF MARCH, 2005.
BOARD OF COUNTY COMMISSIONERS**

Greg Chilcott
Greg Chilcott, Chairman

Betty T. Lund
Betty T. Lund, Member

Alan Thompson
Alan Thompson, Member

Nedra P. Taylor / Texas L. Miller
Attest: Clerk & Recorder deputy



Ravalli County Planning Department	Adopted Fees
Extension to Approved Preliminary Plat Decision	\$50.00
Citizen Initiated Zoning Request	\$350.00
Citizen Initiated Zoning Legal Ads	Actual cost
Wastewater Treatment Exemption (multiple septic)	\$200.00
Extension to Approved Floodplain Permit	\$50.00
Road Petition	\$125.00
GIS fees (attached)	(attached)
Floodplain Waiver (subdivision regulations)	\$200.00

Resolution NO 1587 page 6 of 7

VARIANCES

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6-1. Table of Contents.

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- 6-12. Duration of permit
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6-2. General Description.

This Chapter establishes the procedure, conditions, and requirements to issue a variance.

6-3. Findings.

The Board of County Commissioners makes the following findings:

- (1) Local jurisdictions have the option of granting variances from when strict compliance will result in undue hardship and when it is not essential to the public welfare.
- (2) There could be instances where certain requirements of this Code that if enforced would cause unnecessary hardship to individual landowners.
- (3) Minor deviations from this Code may help to alleviate unnecessary hardships without circumventing or undermining the intent of this Code.
- (4) To avoid arbitrary and inconsistent decisions, it is appropriate to adopt specific criteria that will be used to evaluate each variance request.
- (5) The inability of a landowner to develop to the "highest and best use" because of this Code does not necessarily create a hardship.

- (6) Issuance of a variance does not imply or guarantee approval or conditional approval of a floodplain permit or limit the conditions which may be imposed as a condition of approval.

6-4. Purpose.

The purpose of this Chapter is to define the procedure, requirements, and criteria that a variance can be granted.

6-5. Initiation.

An application shall only be submitted by the property owner, or any person having a contractual interest in the property, or an authorized agent. The variance application shall be submitted concurrent with the submittal of a floodplain application.

6-6. Application and Review Procedure.

(a) *Submittal of Application.* The applicant shall submit a completed application to the Planning Office, along with the appropriate application fee as listed in Chapter 5.

(b) *Determination of Completeness.* Within ten (10) days, but not sooner than four (4) days, of submittal, the Floodplain Administrator shall determine whether the application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has six (6) months to resubmit the application or forfeit the application fee. The Floodplain Administrator shall take no further steps to process the application until the deficiencies are remedied.

(c) *Provision of Public Notice.* Following a determination of completeness, the Floodplain Administrator shall provide for appropriate public notice.

(d) *Public Hearing.* The Board of County Commissioners shall conduct a public hearing to review the application. The public hearing shall be held more

than 14 days after the publication date of the first legal notice.

(e) *Decision.* Within sixty (60) days of the determination of completeness (unless the applicant consents in writing to an extension of the review period) the Floodplain Administrator shall notify the applicant that additional information is needed to adequately evaluate the application or the Board of County Commissioners after considering the comments of the general public and after reviewing the staff report, shall make a decision, based on the criteria as described in Section 6-7, to either:

- (1) approve the application,
- (2) approve the application with conditions, or
- (3) deny the application.

(f) *DNRC Review.* Within five (5) days following the decision and if the Board approves the variance or approves it with conditions, the Floodplain Administrator shall mail the decision to the Department of Natural Resources and Conservation for concurrence, modification, or rejection. (Note: The DNRC has the ability to modify or void the decision of the Board of County Commissioners.)

(g) *Applicant Notification of Decision.* Within seven (7) days following the decision, the Floodplain Administrator shall mail the variance decision to the applicant.

6-7. Basis of Decision.

The Board of County Commissioners shall not approve the variance application unless it makes a positive finding, based on substantial competent evidence, on each of the following:

- (1) There is a hardship on the applicant in carrying out the strict letter of this Code as distinguished from a mere inconvenience.
- (2) The hardship does not directly result from the actions of the applicant.
- (3) The variance is the only option available to the applicant to afford relief from the hardship.
- (4) The variance is the minimum necessary to afford relief from the hardship.
- (5) The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
- (6) The variance will not result in increased flood hazards, present additional threats to public

safety, be an extraordinary public expense, create a nuisance, or conflict with existing state or other local laws.

- (7) A reasonable alternate location that would not require a variance is not available.
- (8) The proposed use would be adequately protected and flood-proofed.

6-8. Limitations on Issuing a Variance.

The following actions shall not be allowed by a variance:

- (1) establishment of a use that will increase the base flood elevation by more than six (6) inches, unless the Floodplain Administrator determines that the increase in flood elevation will not pose a flood hazard to existing or foreseeable development.
- (2) establishment of a use otherwise prohibited; and
- (3) expansion of a nonconforming use or structure.

6-9. Imposition of Conditions.

In issuing a variance, the Board of County Commissioners may impose such conditions and restrictions upon the premises benefitted as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

6-10. Inclusion of Specified Statements for Approved Variances.

Where applicable, the following statements shall be made in the variance decision to put the applicant and subsequent owners on record regarding actual and potential consequences:

- (1) Constructing a building below the 100-year flood elevation will result in increased flood insurance premiums.
- (2) The threat to life and property are higher than if the development meet the requirements of this Code.

6-11. Application Form and Content.

The application shall include:

- (1) An application form as may be used by the Planning Office. (See Appendix A).
- (2) Other information as may be necessary for the Board to make the findings as required in this Chapter.

6-12. Duration of Permit.

An approved variance shall be personal to the owner of record at the time of its approval and shall expire twelve (12) months after the date of approval or earlier by action of the Board of County Commissioners, unless construction has commenced and continues in good faith to completion.

6-13. Appeals.

An applicant or an aggrieved person or persons, jointly or separately, may appeal a decision to approve, approve with conditions, or deny a variance to the Twenty-First Judicial District Court of Montana.

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APPLICATIONS AND FORMS

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TABLE OF CONTENTS

Description
1. Floodplain Application
2. Variance Application
3. Certification Form (Sample)
4. Cost Verification Letter
5. Elevation Certificate (Sample)

Note: Copies of applications and other forms are available from the Ravalli County Planning Office; County Courthouse; 205 Bedford; Courthouse Box 5019; Hamilton, MT 59840 — 406.375.6229.

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INFORMATION FOR APPLICANT

*Instructions for filling out the Joint Application for Proposed Work in Montana's
Streams, Wetlands, Floodplains, and Other Water Bodies
Please Read Carefully*

This application form can be used to obtain permits from the local, state, and federal agencies listed in the box below. Use the box below to determine which permits you may need for your project (contact information is provided); to determine the number of copies of the application to send; to determine what additional information is needed; and to determine what fees, if any, apply.

After completing this form, send the required number of copies, with original signatures, to each applicable agency. Each agency issues separate permits. You must obtain individual authorizations or permits from each agency to which you apply before conducting your work.

For more information about permitting requirements, review "A Guide to Stream Permitting in Montana," available from all participating agencies or on line at www.dnrc.state.mt.us/permit.html. Please note: permits from agencies other than those listed on this application form may be required. You must apply to those agencies on separate forms if the law applies.

Do not submit fees with this application. Fees listed are for information only. The responsible agency will contact you when a fee applies.

✓	PERMIT/ WHO MUST APPLY	AGENCY	AGENCY CONTACTS / ADDRESSES AND ADDITIONAL INFORMATION	REVIEW TIME	FEES – DO NOT SEND PAYMENT
	310 Permit Private citizens and companies working in or near perennial streams.	Local Conservation District	Submit three copies of application, maps, and plans to conservation district. To locate local office, call MT Assoc. of Conservation Districts (406) 443-5711 or Conservation Districts Bureau, DNRC (406) 444-6667; or visit www.dnrc.state.mt.us/conserv.html .	30 – 60 days	No fee
	SPA 124 Permit Governmental entities working in any stream.	Montana Department of Fish, Wildlife & Parks (DFWP)	Submit a set of preliminary plans or sketches with application. To locate appropriate office, call DFWP in Helena (406) 444-2449. For projects sponsored by DOT, send two sets of plans to Helena DFWP, Box 200701, Helena MT 59620-2701.	60 days	No fee
	Floodplain Permit Applicants proposing new construction within designated floodplains.	County Floodplain Administrator	Prior to submitting this application form, contact local floodplain administrator at the county office or locate appropriate office by calling DNRC Water Resources Division (406) 444-6601. Applicant may be required to hire a professional engineer.	60 days	Varies (\$25 - \$400)
	Section 404 Permit Applicants working in any stream and in wetlands. Section 10 Permit Applicants working on Yellowstone, Missouri, or Kootenai Rivers or their reservoirs.	U.S. Army Corps of Engineers (COE)	Submit one copy of application plus a set of construction plans or sketches of the proposed project, if available. See special signature requirements following "Information for Applicant". US Army Corps of Engineers, 10 West 15 th Street Suite 2200, Helena MT 59626; (406) 441-1375.	30 -- 120 days	Varies (\$0 - \$100) You will be contacted if fee applies.
	318 Authorization Activities that cause temporary turbidity in any state water.	Montana Department of Environmental Quality (DEQ)	Do not send this form directly to DEQ if applying for a 310 or 124 permit. You will be notified if you must apply on the 310 or 124 permit you receive. Dept. of Environmental Quality, Permitting and Compliance Division, Water Protection Bureau, Box 200901, Helena MT 59620-0901; (406) 444-3080.	30 days after application and fee are received.	\$150
	Navigable Rivers Land Use License/ Easement – Projects in, on, under, or over navigable waters.	Montana Department of Natural Resources and Conservation (DNRC)	Additional fees, a land survey, and other information will be required. Contact the local DNRC land office for information. To locate appropriate Land Office, call Special Use Management Bureau at (406) 444-2074. To determine if your project is on a navigable waterway, visit: www.dnrc.state.mt.us/trust/tlmdhome.htm .	License – up to 60 days. Easements – up to 90 days.	License \$25 Easement \$50

GUIDELINES FOR COMPLETING THE JOINT APPLICATION

The sections indicated below refer to the corresponding sections on the application form. Sections A, B, and C must be completed for all applications. Section D is to be completed only if you are applying for a Floodplain Permit, Section 404 Permit, or Section 10 permit.

A. APPLICANT INFORMATION. The applicant can be the landowner or any authorized agent of the landowner. The name and address of the owner of the land where the project will be constructed are required if different from the applicant. Be aware that the issuance of any permit does not give permission to carry out a project on land that is not owned by the applicant. The applicant has the duty to secure necessary landowner authorization.

B. PROJECT SITE INFORMATION. This information is required to locate the site and the water body where the work will be completed. Be sure to include directions to the site. Attach an additional sheet or site map that clearly shows the project location and any identifying landmarks. Geocodes help locate the property where the project will be constructed and are available online at: www.gis.doa.state.mt.us/cadastral/textsearch.html Leave the Geocode line blank if you don't have access to the internet.

C. PROJECT INFORMATION. This section provides space for you to describe your project and the steps you will take to minimize impacts. Projects must be constructed in a way that minimizes impacts to the water body. Some agencies and conservation districts may require you to follow specific standards for project design, materials used, or re-vegetation.

1. Be sure to attach a plan or drawing that includes the information requested. Your application will be rejected if project plan or drawing is not provided.

2. Type of Project. Check all boxes that apply to the proposed work.

3. Purpose. Describe the need and purpose of the proposed work. What will it be used for and why?

4. Annual Maintenance. Conservation districts may authorize minor maintenance activities for up to ten years. If the proposed work will be conducted each year, check this box. An annual plan of operation would include the nature and extent of work to be conducted each year. It should include, at minimum, a detailed description of the work to be done, the timing of the work proposed, and the amount of streambed materials to be removed, as well as other information required by the district. If the conservation district authorizes an annual maintenance permit, the application still may be required to seek approval from other agencies prior to doing work each year.

5. Proposed Construction Date. The timing of construction is an important factor in determining impacts to water quality, fish, and aquatic life. Authorizations/permits may contain timing restrictions on construction activities.

6. Dimensions of the Project. Generally describe the impact area of your project and provide the dimensions listed. Use the high water mark as a point of measure. If you are unsure of the high water mark, specify another point of measure.

7. Vegetation. Vegetation is important for bank stability and maintaining water quality. Most agencies require that only the vegetation necessary to conduct the work be removed. Describe the vegetation present at the site. Reseeding and replanting is usually required; describe your plan to re-vegetate the area. USDA, Natural Resources and Conservation Service standards are usually accepted standards for re-vegetation.

8. Materials. What materials are going to be used for your project? Where were they obtained? How much are you planning to use. All materials used must be of adequate size and dimension for the project and be free of pollutants. If streambed or other materials are removed from the bed of a stream, they must be removed from the area so they don't reenter the stream.

9. Equipment. List all equipment that will be used for construction of the project. Make sure your equipment is clean and free of excess grease, weeds, and weed seeds before using it in the waterway. To prevent the spread of whirling disease, remove all mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites. Drain water from machinery and let machinery dry before moving to another location.

10. Steps during construction and after to minimize impacts. Use the space provided to describe what you plan to do to minimize the impact of the proposed project during and after construction. Examples would include sediment fences along the bank or below the proposed work, coffer dams to direct flow away from the project area, fish friendly diversions or stream crossings, re-vegetating disturbed areas, timing of the project, or care in selection of sites and methods used to construct the project.

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS
Information in Section D is specific to Section 404, Section 10, and Floodplain permits. Answer Questions 1-4 if you are applying for a Section 404 or Section 10 permit from the US Army Corps of Engineers. Answer Questions 4-6 if you are applying for a Floodplain Permit from the local floodplain administrator. (Question 4 is required for both.)

1. See definitions listed below for aquatic areas, wetlands, fill material, and how to calculate materials and impacted areas.
2. Indicate names and addresses and addresses of any nearby landowner(s) who may be affected by your project.
3. See definition of mitigation and compensatory mitigation below.
4. For floodplain permits, all permits must be in place before a floodplain permit can be issued.
5. If your project site is in a designated floodplain, the waterway will have a FEMA map number. Contact the county government in which your project will take place to obtain the number.
6. Check with the county government to see if there are special planning or zoning regulations.

Definitions:

- **Aquatic areas** include (but are not limited to) rivers, streams, creeks, lakes, reservoirs, wetlands, wet meadows, oxbows, and sloughs. Named and unnamed drainages that flow intermittently, as well as streams with perennial flow, are aquatic areas (waters of the United States).
- **Fill material** refers to rock, sand, dirt, or any material that replaces an aquatic area with dry land, or changes the bottom elevation of a water body. Prohibited fill material includes junk metal, car bodies, construction debris, trash, etc.
- **Mitigation** means avoiding and/or minimizing impacts to aquatic areas, and compensating for unavoidable impacts. **Compensatory mitigation** refers to replacing aquatic resources that have been lost, with similar aquatic resources. Compensatory mitigation may include creating new, restoring degraded, or enhancing existing aquatic areas.
- **Wetlands** include areas that are inundated or saturated with water long enough to support vegetation typically adapted for life in saturated conditions. Wetlands are generally determined on a site-by-site basis. If you are not sure whether a wetland will be impacted by your proposed project, contact the Corps of Engineers.
- **To calculate impacted area**, measure the length and width that the fill material will occupy. Length x width = area, usually expressed in square feet, square yards or acres. If your project involves a stream, measure the length of bank that will be affected on both sides of the stream.
- **To calculate the volume of material**, measure the length, width, and depth of the fill material. Length x width x depth = volume, usually stated in cubic feet or cubic yards.

SIGNATURE REQUIREMENTS FOR THE U.S. ARMY CORPS OF ENGINEERS
(Section 404 or Section 10 Permit Applications)

Applications submitted to the U.S. Army Corps of Engineers have certain signature/authorization requirements. On the signature portion of the application form, there are three signature lines. The Corps requires the signature of the applicant, landowner, and any agent acting on their behalf.

***If you are a landowner** submitting this application and proposing to undertake a project on your own behalf, please sign and date both the "Signature of Landowner" and "Signature of Applicant" lines.

***If you are a consultant/contractor** acting as an agent on behalf of a landowner, please sign and date only the line designated "Signature of Agent" and indicate your title. The landowner must sign and date the "Signature of Landowner" and "Signature of Applicant" lines to indicate authorization for you to act on his/her behalf.

***If a utility company submits this application**, a representative of the company should sign and date the "Signature of Applicant" line. Landowner signatures are not required.

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all of the local, state, or federal permits listed below. The insert titled "Information to Applicant" includes agency contact information and instructions on how to complete this application. After completing the form, make the required number of copies and sign each copy. Send the copies, with original signatures and additional information required, directly to each applicable agency. To expedite your application, be sure all required information, including a project site map and drawings are included. Incomplete applications will be rejected. Note: other laws may apply. It is your responsibility to obtain all permits and landowner permission, if applicable, before beginning work.

✓	PERMIT	AGENCY	FEE
	310 Permit	Local Conservation District	No Fee
	SPA 124 Permit	Department of Fish, Wildlife and Parks	No Fee
	Floodplain Permit	County Floodplain Administrator	Varies (\$25 - \$400)
	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers	Varies (\$0 - \$100)
	318 Authorization	Department of Environmental Quality	\$150
	Navigable Rivers Land Use License or Easement	Department of Natural Resources and Conservation	License \$25; Easement \$50

A. APPLICANT INFORMATION

NAME OF LANDOWNER at project location: _____
Mailing Address: _____ Day Phone: _____
Physical Address: _____ Evening Phone: _____
City/State/Zip: _____

NAME OF APPLICANT (if different from landowner): _____
Applicant is: ☐ Landowner ☐ Contractor ☐ Other (explain) _____
☐ Government Agency ☐ Landowner's Agent (title) _____
Has the landowner consented to this project? ☐ Yes ☐ No
Mailing Address: _____ Day Phone: _____
Physical Address: _____ Evening phone: _____
City/State/Zip: _____

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location _____ Nearest Town _____
Address/Location: _____ Geocode (if available): _____
____ 1/4 ____ 1/4 ____ 1/4, Section _____, Township _____, Range _____ County _____
Longitude _____, Latitude _____ (if available)

ATTACH A MAP OR A SKETCH of the project site that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) directions to the site; 3) a circled "X" representing the exact project location.

This space is for all Department of Transportation and SPA 124 permits (government projects).

Project Name _____

Control Number _____

MEPA/NEPA Compliance

☐ Yes

Contract letting date _____

☐ No

C. PROJECT INFORMATION

1. In addition to the information requested below, a **PLAN OR DRAWING** of the proposed project **MUST** be attached. This plan or drawing must include: 1) a plan view (looking at the project from above; 2) an elevation view (looking at the project from either the right or left; 3) dimensions of the project; 4) dimensions and location of fill or excavation sites; 5) location of storage or stockpile materials; 6) location of existing or proposed structures, such as buildings, utilities, roads, or bridges; 7) drainage facilities; 8) an arrow indicating north. Floodplain permit applicants are encouraged to inquire locally since additional information is usually required.

2. TYPE OF PROJECT (check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> 1. Stream Crossing (bridges, culverts, fords) | <input type="checkbox"/> 9. Fish Habitat | <input type="checkbox"/> 17. Mining |
| <input type="checkbox"/> 2. Bridge/Culvert Removal | <input type="checkbox"/> 10. Recreation (docks, marinas, etc.) | <input type="checkbox"/> 18. Dredging |
| <input type="checkbox"/> 3. Road Construction/Maintenance | <input type="checkbox"/> 11. New Residential Structure | <input type="checkbox"/> 19. Core Drill |
| <input type="checkbox"/> 4. Bank Stabilization | <input type="checkbox"/> 12. Manufactured Home | <input type="checkbox"/> 20. Placement of Fill |
| <input type="checkbox"/> 5. Flood Protection | <input type="checkbox"/> 13. Improvement to Existing Structure | <input type="checkbox"/> 21. Diversion Dam |
| <input type="checkbox"/> 6. Channel Alteration | <input type="checkbox"/> 14. Commercial Structure | <input type="checkbox"/> 22. Utilities |
| <input type="checkbox"/> 7. Irrigation Structure | <input type="checkbox"/> 15. Wetland Alteration | <input type="checkbox"/> 23. Pond |
| <input type="checkbox"/> 8. Water Well/Cistern | <input type="checkbox"/> 16. Temporary Construction Access | <input type="checkbox"/> 24. Other _____ |

3. WHAT IS THE PURPOSE of the proposed project?

4. IS THIS APPLICATION FOR an annual maintenance permit? ☐ Yes ☐ No
(If yes, an annual plan of operation must be attached to this application – see “Information for Applicant”)

5. PROPOSED CONSTRUCTION DATE: Start ____/____/____ Finish ____/____/____
Is any portion of the work already completed? ☐ Yes -- If yes, describe the completed work. ☐ No

6. DIMENSIONS OF THE PROJECT. Describe the impacted area. How many linear feet of bank will be impacted? How far will the proposed project extend into and away from the water body?

7. VEGETATION. Describe the vegetation at the site. What type and how much vegetation will be removed or covered with fill material? How will the disturbed area be revegetated?

8. MATERIALS. Describe the materials to be used and how much (cubic yards, linear feet, size, type, source of each).

9. EQUIPMENT. What equipment will be used for the proposed work?

10. WHAT STEPS WILL BE TAKEN DURING AND AFTER CONSTRUCTION TO MINIMIZE:

- Erosion, sedimentation, or turbidity?
- Stream channel alterations?
- Effects of stream flow or water quality caused by materials used or removal of ground cover?
- Effects on fish and aquatic habitat?
- Risks of flooding or erosion problems upstream and downstream?

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS

If you are applying for a Section 404 or Section 10 permit, fill out questions 1-4. If you are applying for a Floodplain Permit, fill out questions 4-6. (Question 4 is required for Section 404, Section 10, and floodplain permits.)

1. Will the project involve placement of fill material in a wetland? If yes, describe. How much wetland area will be filled? Calculate the impacted area. Note: A delineation of the wetland may be required.
2. List the names and address of landowners adjacent to and across from the project site. (At its discretion, the permitting agency may contact these landowners.)

3. If there is a plan for compensatory mitigation, describe the location, nature, and amount of proposed mitigation on an attached sheet.

4. If you have already applied for any permits, list them and indicate whether they were issued, denied, or are pending. (Required for Section 404, Section 10, and Floodplain Permits.)

5. FEMA Map Number (if available) _____

6. Does this project comply with local planning or zoning regulations? ☐ Yes ☐ No

E. SIGNATURES/AUTHORIZATIONS

Each copy submitted to an agency must have original signature(s).

I certify that the above statements are true and correct. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the landowner. I authorize the inspection of the project site by inspection authorities. Both the landowner and the person doing the work have the duty to comply with the stipulations of permits and laws.

*Signature of Landowner

Date

Signature of Applicant

Date

**(May be waived by agency for utilities and other easement holders)*

For Section 404/Section 10 applications, see signature

Requirements for US Army Corps of Engineers in the "Guidelines

For Completing Application."

Contractor/Agent

Date

DISPUTE RESOLUTION – 310 PERMIT APPLICANTS ONLY

As the applicant, if you disagree with the conservation district's decision on this application and wish to seek formal resolution, you may ask for a judicial review by filing a petition in district court or you may request a review by a three-member arbitration panel. **You are not required to make the choice between judicial review and arbitration unless you disagree with the conservation district's final action on this application and want to take formal action.** The conservation district will provide you with information about resolving disputes when the 310 permit is issued. However, you may choose arbitration when you file this application or wait until you receive the permit decision. By choosing arbitration at the time of filing this application, you waive your right to have the final decision reviewed by district court.

If you wish to elect arbitration, please check the box. If you wish to decide later and retain your right for judicial review, do not check this box.

☐ I agree to arbitration as the exclusive means of review of a conservation district's decision on a 310 permit. I elect to sign an arbitration agreement as part of this application process and request a copy of the agreement. _____ (Initial)

SUBMITTAL REQUIREMENTS FOR FLOODPLAIN PERMIT APPLICATION

May 1999

To initiate the permit process, you will need to submit two copies of the following information to this office. These instructions apply to all construction/ projects within any designated 100-year floodplain as delineated on the FHBM's, FIRM's, SCS/NRCS floodplain maps, COE floodplain maps, etc. You will need to submit a number of items listed below at a minimum.

1. A list of adjacent property owners and their mailing addresses. (You can get this information from the County's Clerk & Records Office)
2. A letter from each property owner where the project will be completed authorizing the proposed work.
3. A detailed site plan, drawn to scale, showing the following:
 - ◊ Property boundary lines of the subject property and those in the immediate vicinity of the project (you may obtain a copy of the surveys in the Clerk & Records Office)
 - ◊ Approximate location of all floodplain boundaries in the vicinity of the project as depicted on the Floodplain Maps available at your local office
 - ◊ Location of existing improvements in the vicinity of the project, including drive ways, roads, culverts, bridges, buildings, wells, septic systems, and other improvements
 - ◊ Location of all existing physical features in the vicinity of the project, including ponds, swales, streams, and irrigation ditches
 - ◊ Location and dimensions of all proposed improvements, including driveways, roads, culverts, bridges, ponds, buildings, wells and other structures
 - ◊ Location for all fill that will be brought into the floodplain
4. A statement specifying the amount of fill that will be placed within the floodplain and supporting calculations.
5. For a house submit:
 - ◊ the existing ground elevation at the location of the proposed house and the calculated height of the 100-year floodplain (You will need to work with a land surveyor to obtain this information.) Calculations for the amount of fill (in cubic yards) to be placed in the flood plain (see Administrative Rules Sec 36.15.702(1a))
 - ◊ specifications for the fill material (type of material, sizes, etc.)
6. For any other building submit:
 - ◊ a drawing of the building
 - ◊ a statement indicating which of the two development standards will apply (see Administrative Rules Sec.36.15. 702(2)).

7. For bank stabilization submit:

- ◊ a description of existing conditions
- ◊ a historical overview of trends in the river movement, if any.
- ◊ a description of the problem
- ◊ a description of the objectives of the project
- ◊ a short description of design alternatives that were considered, if any, but rejected, and an explanation of why each one was rejected
- ◊ typical cross-section (based on survey data) of the river from bank to bank, which shows the existing condition and proposed treatment and the height of the 100-year flood event, the base flow elevation, and the bank full elevation.
- ◊ a longitudinal profile of the river surface and bed in the project area.
- ◊ a plan view (using an aerial photograph as a base) of the project area which shows the beginning and ending points of the treatment and the various types of treatment.
- ◊ specifications for the treatment material (type of material, sizes, quantities, etc.
- ◊ calculations to show that the proposed project will not raise the elevation of the 100-year flood more than six inches above the 100-year flood elevation as documented on the flood plain maps available in your local office.
- ◊ a description of the project implementation (project phases, sediment control, staging areas, cleanup, etc.)

8. For a bridge submit:

- ◊ drawings and specifications for the bridge as certified by professional engineer
- ◊ calculations for the amount of fill to be placed in the floodplain
- ◊ a cross-section at the location of the bridge which shows the existing condition and the elevation of the 100-year flood event

9. For a pond submit:

- ◊ a description of existing conditions
- ◊ a description of the objectives of the project
- ◊ calculations for the amount of material to be removed from the pond
- ◊ a description of where the material will be placed outside of the floodplain

10. For a road(s) submit:

- ◊ a description of existing conditions
- ◊ a description of the objectives of the project
- ◊ calculations to show that the culverts) will be large enough to handle the expected flows.

11. Other:

Once your final application is received, it will be reviewed to make sure the information is sufficient. If it is not sufficient, you will receive a letter that explains the deficiencies. A decision will be made within 60 days of when your application is deemed sufficient. You should also be aware that as part of the review process, the adjoining property owners will be notified letting them know about the proposed work, and a legal notice placed in the paper of general circulation containing a brief description of the application.

Floodplain Variance Application

Ravalli County, Montana

1. Project Name _____

2. Applicant Information:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ (daytime)

3. Describe the requested variance.

4. Describe how the requested variance meets each of the following conditions: (Attach additional pages.)

- (1) There is a hardship on the applicant in carrying out the strict letter of this Floodplain Regulations as distinguished from a mere inconvenience.
- (2) The hardship does not directly result from the actions of the applicant.
- (3) The variance is the only option available to the applicant to afford relief from the hardship.
- (4) The variance is the minimum necessary to afford relief from the hardship.
- (5) The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
- (6) The variance will not result in increased flood hazards, present additional threats to public safety, be an extraordinary public expense, create a nuisance, or conflict with existing state or other local laws.
- (7) A reasonable alternate location that would not require a variance is not available.
- (8) The proposed use would be adequately protected and flood-proofed.

Note: The Board of County Commissioners may revoke an approval if it determines that information provided by the applicant, and/or the applicant's agent, and upon which such decision was based, is inaccurate. Furthermore, a person commits an offense under Section 45-7-203 MCA, if he purposely misleads a public servant in performing his official duties. Therefore, please complete the application accurately and provide all information requested.

Floodplain Permit Compliance Certification

Permit Number: FP - D - 98 - 039

Name(s) of Permittee: Sam Smith
Susan Smith

Within five (5) days following the completion of the activity authorized or required by the above-referenced permit, the permittee shall sign this certification and return it to the following address:

Floodplain Administrator
Ravalli County Planning Office
205 Bedford Street, Courthouse Box 5019
Hamilton, MT 59840

.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of said permit. I understand that the Floodplain Administrator may inspect the project for compliance. I further understand that if the work does not meet the terms of the permit, I will take all measures necessary to correct the deficiency.

_____ Name (Print)	_____ Signature	_____ Date
-----------------------	--------------------	---------------

_____ Name (Print)	_____ Signature	_____ Date
-----------------------	--------------------	---------------

STATE OF _____ }
 :ss
County of _____ }

This instrument was acknowledged before me on _____, 1998, by _____

- SEAL -

Notary Public for the State of _____
My commissioner expires _____
Residing at _____

Example of a cost verification to be completed by a professional engineer or architect.

(To be typed on Firm's Letterhead)

Date

Floodplain Administrator
Ravalli County Planning Office
205 Bedford; Courthouse Box 5019
Hamilton, MT 59840

Dear Floodplain Administrator,

I hereby certify that the value of the proposed repair, reconstruction, or improvement is less than fifty (50) percent of the market value of the structure before the repair, reconstruction, or improvement as defined in Chapter 2 of the Ravalli County Floodplain Regulations. This work does not constitute a substantial improvement to the structure and does not need to meet the development standards in the Floodplain Regulations.

(Seal)

(Signature)

ELEVATION CERTIFICATE

FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM

ATTENTION: Use of this certificate does not provide a waiver of the flood insurance purchase requirement. This form is used only to provide elevation information necessary to ensure compliance with applicable community floodplain management ordinances, to determine the proper insurance premium rate, and/or to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR). Instructions for completing this form can be found on the following pages.

SECTION A PROPERTY INFORMATION	FOR INSURANCE COMPANY USE
BUILDING OWNER'S NAME	POLICY NUMBER
STREET ADDRESS (Including Apt., Unit, Suite and/or Bldg. Number) OR P.O. ROUTE AND BOX NUMBER	COMPANY NAIC NUMBER
OTHER DESCRIPTION (Lot and Block Numbers, etc.)	

CITY	STATE	ZIP CODE
------	-------	----------

SECTION B FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

Provide the following from the proper FIRM (See Instructions):

1. COMMUNITY NUMBER	2. PANEL NUMBER	3. SUFFIX	4. DATE OF FIRM INDEX	5. FIRM ZONE	6. BASE FLOOD ELEVATION (in AO Zones, use depth)
---------------------	-----------------	-----------	-----------------------	--------------	---

7. Indicate the elevation datum system used on the FIRM for Base Flood Elevations (BFE): ☐ NGVD '29 ☐ Other (describe on back)
8. For Zones A or V, where no BFE is provided on the FIRM, and the community has established a BFE for this building site, indicate the community's BFE: feet NGVD (or other FIRM datum—see Section B, Item 7).

SECTION C BUILDING ELEVATION INFORMATION

1. Using the Elevation Certificate Instructions, indicate the diagram number from the diagrams found on Pages 5 and 6 that best describes the subject building's reference level _____
- 2(a). FIRM Zones A1-A30, AE, AH, and A (with BFE). The top of the reference level floor from the selected diagram is at an elevation of feet NGVD (or other FIRM datum—see Section B, Item 7).
- (b). FIRM Zones V1-V30, VE, and V (with BFE). The bottom of the lowest horizontal structural member of the reference level from the selected diagram, is at an elevation of feet NGVD (or other FIRM datum—see Section B, Item 7).
- (c). FIRM Zone A (without BFE). The floor used as the reference level from the selected diagram is feet above ☐ or below ☐ (check one) the highest grade adjacent to the building.
- (d). FIRM Zone AO. The floor used as the reference level from the selected diagram is feet above ☐ or below ☐ (check one) the highest grade adjacent to the building. If no flood depth number is available, is the building's lowest floor (reference level) elevated in accordance with the community's floodplain management ordinance? ☐ Yes ☐ No ☐ Unknown
3. Indicate the elevation datum system used in determining the above reference level elevations: ☐ NGVD '29 ☐ Other (describe under Comments on Page 2). (NOTE: If the elevation datum used in measuring the elevations is different than that used on the FIRM [see Section B, Item 7], then convert the elevations to the datum system used on the FIRM and show the conversion equation under Comments on Page 2.)
4. Elevation reference mark used appears on FIRM: ☐ Yes ☐ No (See Instructions on Page 4)
5. The reference level elevation is based on: ☐ actual construction ☐ construction drawings
(NOTE: Use of construction drawings is only valid if the building does not yet have the reference level floor in place, in which case this certificate will only be valid for the building during the course of construction. A post-construction Elevation Certificate will be required once construction is complete.)
6. The elevation of the lowest grade immediately adjacent to the building is: feet NGVD (or other FIRM datum—see Section B, Item 7).

SECTION D COMMUNITY INFORMATION

1. If the community official responsible for verifying building elevations specifies that the reference level indicated in Section C, Item 1 is not the "lowest floor" as defined in the community's floodplain management ordinance, the elevation of the building's "lowest floor" as defined by the ordinance is: feet NGVD (or other FIRM datum—see Section B, Item 7).
2. Date of the start of construction or substantial improvement _____

SECTION E CERTIFICATION

This certification is to be signed by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation information when the elevation information for Zones A1-A30, AE, AH, A (with BFE), V1-V30, VE, and V (with BFE) is required. Community officials who are authorized by local law or ordinance to provide floodplain management information, may also sign the certification. In the case of Zones AO and A (without a FEMA or community issued BFE), a building official, a property owner, or an owner's representative may also sign the certification.

Reference level diagrams 6, 7 and 8 - Distinguishing Features-If the certifier is unable to certify to breakaway/non-breakaway wall, enclosure size, location of servicing equipment, area use, wall openings, or unfinished area Feature(s), then list the Feature(s) not included in the certification under Comments below. The diagram number, Section C, Item 1, must still be entered.

*I certify that the information in Sections B and C on this certificate represents my best efforts to interpret the data available.
I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.*

CERTIFIER'S NAME

LICENSE NUMBER (or Affix Seal)

TITLE

COMPANY NAME

ADDRESS

CITY

STATE

ZIP

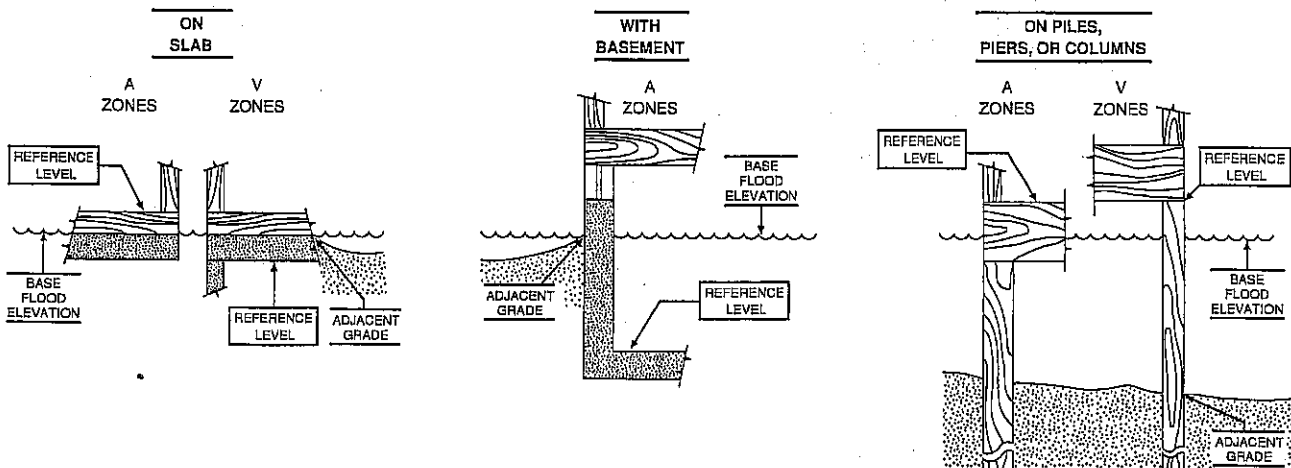
SIGNATURE

DATE

PHONE

Copies should be made of this Certificate for: 1) community official, 2) insurance agent/company, and 3) building owner.

COMMENTS:



The diagrams above illustrate the points at which the elevations should be measured in A Zones and V Zones.

Elevations for all A Zones should be measured at the top of the reference level floor.

Elevations for all V Zones should be measured at the bottom of the lowest horizontal structural member.

AGENCY CONTACT LIST

(As of September 1, 1998)

.....

Cities & Towns

Town of Darby
Town Hall
Darby, MT 59829

City of Hamilton
223 South Second Street
Hamilton, MT 59840

Town of Pinesdale
Pinesdale, MT 59841

Town of Stevensville
206 Buck Avenue
Stevensville, MT 59870

Selected Agencies

(State Floodplain Management Program)
Mr. Karl Christians, Section Supervisor
Montana Department of Natural Resources and
Conservation
Water Operations Bureau, Floodplain Management
Section
48 North Last Chance Gulch
P.O. Box 202301
Helena, MT 59620-2301
406-444-6654

(Historic Resource Issues)
State Historic Preservation Office
P.O. Box 201202
Helena, MT 59620-1202

(Historic/Cultural Resource Issues)
Salish Cultural Committee
Ms. Germaine White, Cultural Resource Manager
P.O. Box 418
St. Ignatius, MT 59865

(124 Permit)

Montana Department of Fish, Wildlife & Parks
Attn: Chris Clancy, Fisheries Biologist
c/o Bitterroot National Forest
1801 North First
Hamilton, MT 59840
406-363-7169

(310 Permit)

Bitterroot Conservation District
Ms. Marilyn Finley, Administrative Assistant
1709 North First
Hamilton, MT 59840
406-363-5010
fax: 406-363-5011

(404 Permit)

U.S. Army Corps of Engineers, Omaha District
Helena Regulatory Office
301 South Park, Drawer 10014
Helena, MT 59620-0014
406-441-1375
fax: 406-441-1380

*(3-A Authorization - Short Term Exemption from Surface
Water Quality Turbidity Standards) and
(General Discharge Permit for Stormwater Associated
with Construction Activity)*
Montana Department of Environmental Quality,
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901
406-444-3080

*(Form 600 - Beneficial Water Use Permit For Pond
Construction)*
Department of Natural Resources, Water Resources
Regional Office
1610 South 3rd, Suite 103
Missoula, MT 59827
406-721-4284

Note: This list is intended to provide general purpose information.
There may be other agencies with additional permit requirements.

.....

FLOODPLAIN MITIGATION AGREEMENT ¹

This Floodplain Mitigation Agreement, hereafter referred to as "agreement", is made this ___ day of ___, 19___ by _____, herein after referred to as the "declarant".

Generally. On _____, 19___, Ravalli County issued the declarant a floodplain permit (FP - D - 98 - 039) to stabilize a section of the bank of the Bitterroot River. The declarant acknowledges that the project may possibly have negative consequences on land not owned by the declarant or may possibly negatively effect the function/stability of the river system. As a condition of that permit this agreement is to be filed with the Ravalli County Clerk & Recorder.

Purpose of Agreement. The declarant hereby agrees that if the permitted project is having a substantial negative effect on other landowners or the function/stability of the river system, it shall be modified or removed at the expense of the person owning the subject property at the time the Floodplain Administrator makes such a written determination based on an appropriate findings of fact.

Property Subject to Agreement. The following real property in Ravalli County, Montana, and subsequent divisions thereof, is subject to this agreement: _____ (legal description)

Applicability. This agreement shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in any real property containing the elements of the floodplain project.

Term. This agreement is perpetual and cannot be terminated except in writing by the Floodplain Administrator based on an appropriate findings of fact. Such termination shall only occur after it is clear based on a preponderance of evidence that the project is not having and likely will not have negative effects identified herein.

Amendments. This agreement may be amended by the declarant and Floodplain Administrator, but not so as to make any provision less strict or less inclusive.

Entire Agreement. This agreement embodies the complete agreement, superseding all previous and contemporary oral and/or written communications.

Severability. If a court of competent jurisdiction holds that a part(s) of this agreement is invalid for any reason, the validity of the remaining portions shall continue in full force and effect and the rights of the parties shall be construed as if the part(s) was never part of this agreement.

Venue. If legal action is necessary concerning this agreement, exclusive venue will lie with the District Court of the Twenty-First Judicial District of the State of Montana, located in Hamilton, Montana.

Litigation Fees. Should any party initiate litigation, arbitration, or mediation concerning this agreement, the prevailing party(ies) shall receive from the opposing party(ies) financial compensation for all related costs, including reasonable attorney's fees and expert witness fees.

Waiver or Abandonment. The waiver of, or failure to enforce any breach or violation of any provision of this agreement, shall not be deemed to be a waiver or abandonment of such provision, or waiver of the right to enforce any subsequent breach or violation of such provision.

1. As a condition of approval, the applicant may be required to sign a mitigation agreement, especially if the project involves instream structures and the like. This is a sample of a typical agreement. Depending on the circumstances surrounding the application, the final agreement may be different than the one shown here.

Print Name _____

Date _____

Signature

Date _____

(Comment: Add other signature blocks as necessary.)

STATE OF _____ }
County of _____ } ss

This instrument was acknowledged before me on _____, 19__ by _____

Notary Public for the State of

My commissioner expires

Residing at

- SEAL -

FLOODPLAIN MONITORING AGREEMENT ²

This Floodplain Mitigation Agreement, hereafter referred to as "agreement", is made this ____ day of ____, 19__ by _____, herein after referred to as the "declarant".

Generally. On _____, 19__, Ravalli County issued the declarant a floodplain permit (FP - D - 98 - 039) to stabilize a section of the bank of the Bitterroot River. As a condition of that permit this agreement is to be filed with the Ravalli County Clerk & Recorder.

Purpose of Agreement. The declarant hereby agrees to submit a monitoring report to the Floodplain Administrator as described.

- (a) **Generally.** The owner will contract with ____ (consultant name), or their assigns or representative, to prepare and submit a monitoring report to the Floodplain Administrator as described in this agreement.
- (b) **Submittal Date.** The report shall be submitted to the Floodplain Administrator by November 30th during the year when monitoring is required.
- (c) **Duration and Frequency of Monitoring.** Monitoring shall be conducted in the following years: ____ and ____ (typically 2 different years e.g 1998 and 2000).
- (d) **Form and Basis of Report.** The report shall be in writing, supported by color photographs and actual field surveys, and be based on at least one (1) field investigation conducted during July, August, September, or October.
- (e) **Report Content.** The report shall, at a minimum, include the following information:
 - (1) date of field investigation and name of preparer;
 - (2) the effects of the structures on adjacent property;
 - (3) the effects of the structures on the overall river system;
 - (4) the effects of floodwaters on the structural integrity of the structures;
 - (5) an estimate of the flood magnitude for each year following structure installation;
 - (6) the effectiveness of the structures in addressing the identified problem; and
 - (7) appropriate documentation for all conclusions made.

Property Subject to Agreement. The following real property in Ravalli County, Montana, and subsequent divisions thereof, is subject to this agreement: _____ (legal description)

Applicability. This agreement shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in any real property containing the elements of the floodplain project.

Term. This agreement shall expire when the declarant meets all of the terms of this agreement and the Floodplain Administrator verifies completion in writing. The Floodplain Administrator may revoke this Agreement prior to its expiration, when it can be shown that further monitoring is unnecessary or the structures have been removed.

Amendments. This agreement may be amended by the declarant and Floodplain Administrator, but not so as to make any provision less strict or less inclusive.

Entire Agreement. This agreement embodies the complete agreement, superseding all previous and contemporary oral and/or written communications.

2. As a condition of approval, the applicant may be required to sign a monitoring agreement. This is a sample of a typical agreement. Depending on the circumstances the final agreement may be different than the one shown here.

Venue. If legal action is necessary concerning this agreement, exclusive venue will lie with the District Court of the Twenty-First Judicial District of the State of Montana, located in Hamilton, Montana.

Waiver or Abandonment. The waiver of, or failure to enforce any breach or violation of any provision of this agreement, shall not be deemed to be a waiver or abandonment of such provision, or waiver of the right to enforce any subsequent breach or violation of such provision.

Print Name _____

Date _____

Signature

Date _____

(Comment: Add other signature blocks as necessary.)

County of _____ }

Notary Public for the State of _____

My commissioner expires _____

Residing at _____

Ravalli County, Montana

Office Floodplain Regulatory Determination
Ravalli County Planning Department

There are two types of floodplain maps for Ravalli County: regulatory flood maps for both the Bitterroot mainstem and the East & West Forks and the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) for the mainstem. The mainstem regulatory maps were adopted February 10, 1995; the East & West Fork regulatory maps were adopted January 9, 1997. FEMA adopted the FIRMs on September 7, 1998 which are valid for flood insurance and mortgage purposes. ***This determination is for regulatory purposes only.*** A list of private companies that make floodplain determinations for insurance and mortgage purposes is available.

Section 1. Parcel Information To Be Provided By Applicant

1. Parcel (Tax) # _____ GeoCode: _____ - _____ - _____ - _____ Sect: _____ T: _____ N S R: _____
2. Lot: _____ Block: _____ Subdivision: _____ OR COS Number: _____ Tract/Parcel: _____
3. Street Address(if applicable): _____
4. Determination Requested For: (check all that apply)
Subject Property: _____ Residence: _____ Other Buildings (specify): _____
Note: A copy of the plat filed with the Ravalli County Clerk & Recorder's Office showing location of all improvements (if any) must accompany this application. (See #9)
5. Type of Project (Reason for Determination) _____
6. Property Titleholder(s) Name (first/last): _____
7. Applicant Information:
Name: _____
Address: _____
City/State/Zip: _____
Telephone: _____ (daytime)
8. Statement of Liability Disclaimer: *This determination does not imply that the subject property will or will not be free from flooding or flood damage. A property not in a Special Flood Hazard Area may be damaged by a flood greater than that predicted or from a local drainage problem not shown on the map. This determination does not create liability on the part of Ravalli County or any employee thereof from any damage that may result from reliance on this determination.*
I have read the above Statement of Liability and accept the conditions thereof: _____ (Sign here)
9. A \$15 office determination or \$50 on-site determination fee and a copy of the recorded plat or COS must accompany this application.

Section 2. Determination (For Office Use Only)

1. Bitterroot Mainstem Floodplain Map Panel Number: _____ Revised April, 1996
East & West Forks Floodplain Map Panel Number: _____ Effective October, 1998

2. Findings:

The entire subject property is:	A portion of the subject property is:	The improvements identified in the application are:	Status:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	within a floodway. Mobile home replacement, new construction, reconstruction which enlarges the footprint, or substantial improvement is prohibited.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	within the 100-year Special Flood Hazard Area. New residential construction is prohibited. Floodplain permits are required for all non-residential construction and replacement, reconstruction or substantial improvement of existing structures.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	within the 500-year Special Flood Hazard Area. A floodplain permit is required. Although new residential construction is permitted, access should not be constructed through the floodway or 100-year Special Flood Hazard Area.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	outside of any Special Flood Hazard Area. A floodplain permit is not required.

4. Comments: